

83 Sept. 12

STATE REGISTER

STATE OF MINNESOTA

RECEIVED
SEP 1 1983
LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155



VOLUME 8, NUMBER 11

September 12, 1983

Pages 421-488



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
12	Monday Sept 5	Monday Sept 12	Monday Sept 19
13	Monday Sept 12	Monday Sept 19	Monday Sept 26
14	Monday Sept 19	Monday Sept 26	Monday Oct 3
15	Monday Sept 26	Monday Oct 3	Monday Oct 10

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Rudy Perpich
Governor

Carol Anderson Porter
Editor

Sandra J. Hale
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 1-11..... 424

EXECUTIVE ORDERS

Emergency Executive Order No. 83-37 Providing for Assistance to Officials of the Minnesota Department of Health: Repealing Emergency Executive Order No. 83-32 425

PROPOSED RULES

Board of Animal Health

Proposed Amendments to Rules Governing Eradication of Bovine and Bison Brucellosis [notice of intent to amend rules without a public hearing] 426

State Board of Education (State Board for Vocational Education) Department of Education

Vocational-Technical Division
Proposed Rule Governing Chapter Thirty-Nine: Rules for Licensure of Vocational Education Personnel [notice of intent to adopt rules without a public hearing] 428

Employee Relations Department

Proposed Rules Governing the State Personnel System [notice of intent to adopt rules without a public hearing] 429

Minnesota Higher Education Coordinating Board

Proposed Temporary Rule Governing State Scholarship and Grant-in-Aid, and Part-Time Student Grants [request for public comment]..... 431

Minnesota Housing Finance Agency

Proposed Rules Relating to the Innovative Housing Loan Program [notice of intent to adopt rules without a public hearing] 432
Proposed Rules Relating to Income Limits for the Medium Density Housing Program [notice of intent to adopt rules without a public hearing] 434

Secretary of State's Office

Proposed Rules for Administrative and Automatic Election Recounts; Proposed Amendments to Rules for Voter Registration; Proposed Amendments to Rules for Preparation of the White Ballot; Proposed Amendments to Rules for Certification and Experimental and General Use of Voting Machines; Proposed Amendments to Rules for Absentee Voting and Delivery Procedures [notice of intent to adopt rules without a public hearing] 435

Transportation Department

Proposed Rules Governing Distribution of Financial Assistance under the Public Transit Assistance Program; and Repeal of Existing Rules [notice of hearing]..... 451

ADOPTED RULES

Minnesota Housing Finance Agency

Adopted Temporary Rules Governing Cooperative/Rental Multi-Family Housing Innovative Loans..... 459

Welfare Department

Bureau of Support Services
Adopted Temporary Rules Governing the Determination of Welfare Per Diem Rates for Nursing Homes under the Title XIX Program 461

Housing Finance Agency

Adopted Rules Relating to Home Improvement Loan Applications 475

TAX COURT

State of Minnesota, County of St. Louis. Tax Court, Regular Division. Black Steer Supper Club II.

Inc., Appellant, v. Commissioner of Revenue, Appellee. Findings of Fact, Conclusions of Law and Order for Judgment. Docket No. 3822. Order dated August 29, 1983 475

SUPREME COURT

Decisions Filed Friday, September 2, 1983

C0-82-603 The Minneapple Co. v. William Normandin, individually and d.b.a. Billy Buttons, Appellant, Hennepin County..... 477
C0-82-1492 Phyllis Elaine Holliday and William Holliday, Appellants v. Robert Larson, et al. Lake County 478
C9-82-289, C0-82-1234 Richard Pilger, Appellant v. State of Minnesota, Polk County 478
C7-82-856 State of Minnesota v. Joseph William Charlton, Appellant, Itasca County 478
C6-81-627 In the Matter of the Petition for Disciplinary Action Against Allan T. Quello, a Minnesota Lawyer, Supreme Court 478

STATE CONTRACTS

Governor's Office

Federal-State Relations Consultant 478

OFFICIAL NOTICES

Agriculture Department

Minnesota Export Finance Authority
Outside Opinion Sought on Proposed Rules Governing the Policies and Procedures of the Minnesota Export Finance Authority Relating to the Financing of Pre-Export Credit Needs of Minnesota Exporters..... 479

Agriculture Department

Agromony Services Division
Notice of Special Local Need (SLN) Registration for Clean Crop Paraquat Plus 479

Commerce Department

Outside Opinion Sought on Proposed Amendments to Rules Governing Open Competition for Workers' Compensation Rates..... 480
Outside Opinion Sought on Proposed Rules Governing Self-Insurance Plan Administrators 480

Commerce Department

Financial Institutions Division
Bulletin No. 2816: Maximum Lawful Rate of Interest for Mortgage and Contracts for Deed for the Month of September 1983 481

Minnesota State Advisory Council for Vocational Education

Notice of Meeting 481

State Board of Pharmacy

Notice of Intent to Extend Comment Period 481

Public Welfare Department

Income Maintenance Bureau
Outside Opinion Sought on Rule Relating to Prospective Rate Review for Inpatient Hospital Reimbursement under the Medical Assistance and General Assistance Medical Care Programs 481

Minnesota Racing Commission

Outside Opinion Sought on Proposed Rules Governing Parimutuel Horse Racing in Minnesota 482

Transportation Department

Petition of the City of St. Louis Park for a Variance from State Aid Standards for Street Width 482

County Law Libraries

Joint Notice of Filing Fees 483

NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
• Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
• Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
• Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
• Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
• Notice of adoption of temporary rules.
• Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before September 15, 1982, are published in the Minnesota Code of Agency Rules 1982 Reprint. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, Minnesota Rules, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the MCAR 1982 Reprint are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the State Register but are not published in the 1982 Reprint due to the short-term nature of their legal effectiveness.

The State Register publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Table with 2 columns: Issue range and Issue number. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issue 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the MCAR 1982 Reprint.

MCAR AMENDMENTS AND ADDITIONS

TITLE 1 CONSTITUTIONAL OFFICES

Part 2 Secretary of State

1 MCAR §§ 2.0103, 2.0301, 2.0507, 2.0509, 2.1005, 2.2101-2.2102, 2.2106, 2.2109-2.2110, 2.2112, 2.2114-2.2115, 2.3104, 2.3200, 2.3302, 2.3702-2.3703, 2.3801, 2.4105, 2.4106, 2.4202 (proposed) 435
1 MCAR §§ 2.0901-2.0903, 2.2113, 2.4102 D. and E. (proposed repeal) 435
1 MCAR §§ 2.4001-2.4011 (proposed) 435

TITLE 2 ADMINISTRATION

Part 2 Employee Relations Department

2 MCAR §§ 2.303, 2.406, 2.409, 2.413 (proposed) 429
2 MCAR §§ 2.225, 2.2301 (proposed repeal) 429

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR § 1.0172 (proposed) 257
3 MCAR § 1.0325 (adopted) 28
3 MCAR § 1.0326 (adopted) 29
3 MCAR § 1.0327 (adopted) 30
3 MCAR § 1.0328 (adopted) 30

Part 2 Board of Animal Health

3 MCAR § 2.001, LSB 43, 3 MCAR § 2.044 (proposed) 77
3 MCAR § 2.011 (proposed) 426

TITLE 4 COMMERCE DEPARTMENT

Part 1 Commerce Department

4 MCAR §§ 1.0001-1.0032 [Temp] (proposed) 362
4 MCAR §§ 1.9081 Temp-1.9089 Temp, 1.90891 Temp, 1.90892 Temp (proposed) 260

Part 2 Energy and Economic Development

4 MCAR §§ 2.501-2.508 (proposed repeal) 149

Part 3 Public Utilities Commission

4 MCAR §§ 3.0317-3.0322 (proposed) 82
4 MCAR §§ 3.0450 [Temp]-3.0454 [Temp], 3.0456 [Temp], 3.0460 [Temp]-3.0463 [Temp] (proposed) 103

Part 7 Board of Architecture, Engineering, Land Surveying and Landscape Architecture

4 MCAR § 7.004 (proposed) 355

Part 11 Electricity Board

4 MCAR §§ 11.033-11.038 (proposed) 137

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR § 1.0790 (proposed) 428
5 MCAR § 1.0807 (proposed temporary) 144

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.0604, 2.0606, 2.0100, 2.2101-2.2106, 2.2201-2.2206, 2.2301-2.2307, 2.2401-2.2405, 2.2501-2.2503.

2.2601-2.2605, 2.2701-2.2705, 2.2801-2.2811 (adopted) 196
 5 MCAR §§ 2.0101-2.0108, 2.0201-2.0209, 2.0801-2.0806,
 2.0901-2.0918, 2.0990, 2.1001-2.1008 (repealed) 196
 5 MCAR §§ 2.2101 [Temp]-2.2106 [Temp].
 2.2204 [Temp] (proposed) 431
Part 3 Board of Teaching
 5 MCAR §§ 3.007, 3.065, 3.0831, 3.088,
 3.089 (adopted) 244

TITLE 6 ENVIRONMENT

Part 4 Pollution Control Agency
 6 MCAR §§ 4.3003, 4.3005 M., 4.3010,
 4.3013 (adopted) 243
 6 MCAR § 4.8024 (proposed) 101

TITLE 7 HEALTH

Part 1 Health Department
 7 MCAR § 1.059 (proposed) 225
 7 MCAR §§ 1.2395, 1.314 (proposed) 284
 7 MCAR §§ 1.651, 1.654 (proposed) 358

TITLE 8 LABOR

Part 1 Labor and Industry Department
 RS 1, RS 14, RS 15, RS 17-RS 19 (proposed) 264
Part 3 Public Employment Relations Board
 8 MCAR §§ 3.001, 3.003-3.006, 3.0061, 3.007-3.008, 3.010-
 3.019, 3.030, 3.032, 3.034-3.038, 3.040-3.041, 3.050, 3.052-
 3.054, 3.0541, 3.055, 3.060, 3.062-3.063, 3.0641, 3.0651, 3.0661,
 3.067-3.078 (adopted) 293
 8 MCAR §§ 3.033, 3.039, 3.064-3.065 (repealed) 293
Part 4 Economic Security Department
 8 MCAR § 4.0101 [Temp] (proposed) 322
 8 MCAR § 4.0102 [Temp] (proposed) 324

TITLE 11 PUBLIC SAFETY

Part 1 Department of Public Safety
 11 MCAR §§ 1.2094, 1.2140 (proposed) 289
 11 MCAR §§ 1.3060-1.3066 (adopted) 243

Part 2 Corrections Department
 11 MCAR §§ 2.001-2.012 (proposed) 57

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department
 12 MCAR § 2.027 (adopted) 161
 12 MCAR §§ 2.05001 [Temp]-2.5016 [Temp] (proposed) 6
 12 MCAR §§ 2.05001 [Temp]-2.05016 [Temp] (adopted) 461
 12 MCAR §§ 2.05401-2.05403 (proposed temporary) 150
 12 MCAR §§ 2.05501 [Temp]-2.05509 [Temp].
 2.04422 [Temp] (proposed) 325
 12 MCAR § 2.164 (proposed temporary) 160
 12 MCAR § 2.204 (proposed) 189
 12 MCAR §§ 2.494, 2.840 (proposed) 273

Part 3 House Finance Agency

12 MCAR §§ 3.002 [Temp], 3.055 [Temp]-3.057 [Temp]
 (proposed) 5
 12 MCAR §§ 3.002 [Temp], 3.055 [Temp]-3.057 [Temp]
 (adopted) 334
 12 MCAR §§ 3.002 [Temp], 3.133 [Temp], 3.134 [Temp]
 (adopted) 116
 12 MCAR § 3.037 (proposed) 434
 12 MCAR § 3.051 (adopted) 476
 12 MCAR §§ 3.058 [Temp]-3.061 [Temp] (proposed) 109
 12 MCAR § 3.120 (proposed) 433
 12 MCAR § 3.122-3.126 (adopted) 459
 12 MCAR §§ 3.160 [Temp]-3.165 [Temp] (proposed) 111

TITLE 13 TAXATION

Part 1 Revenue Department
 13 MCAR § 1.6016 (proposed repeal) 292
 13 MCAR §§ 1.6004, 1.6501-1.6503; and 2019 (adopted) 114

TITLE 14 TRANSPORTATION

Part 1 Transportation Department
 14 MCAR §§ 1.4031-1.4033, 1.4035, 1.4037, 1.4040, 1.4042-1.4045,
 1.4050, 1.4055, 1.4060, 1.4065 (proposed) 451
 14 MCAR §§ 1.4025-1.4030 (proposed repeal) 451
 14 MCAR §§ 1.7001, 1.7003, 1.7005, 1.7007-1.7009 (adopted) 30

EXECUTIVE ORDERS

Emergency Executive Order No. 83-37

**Providing for Assistance to Officials of the Minnesota Department of Health;
Repealing Emergency Executive Order No. 83-32**

I, MARLENE JOHNSON, LIEUTENANT GOVERNOR, acting in the place of Governor Rudy Perpich, who is absent from the state, and in accordance with the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Minnesota Department of Health has determined that there is an increasingly serious risk of a major outbreak of Western Encephalitis in the state; and

WHEREAS, the Governor has issued a proclamation providing for a declaration of emergency; and

EXECUTIVE ORDERS

WHEREAS, officials of the Minnesota Department of Health have requested the National Guard to assist in the control of this emergency situation through utilization of the assets of the Minnesota Air and Army National Guard,

NOW THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on or after August 22, 1983, in the service of the state, such elements of the military forces of the state as are necessary to assist the Department of Health officials. Those forces shall be utilized for such a period of time as necessary.

2. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals will be defrayed from the general revenue of the state as provided for in Minnesota Statutes 1982, section 192.49, subdivision 1; section 192.51; and section 192.52.

This Order is effective retroactively to August 22, 1983, and shall remain in force until such date as elements of the military forces of the state are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand this 22nd day of August, 1983.

Mallene Johnson

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Animal Health

Proposed Amendments to Rules Governing Eradication of Bovine and Bison Brucellosis (3 MCAR § 2.011)

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the State Board of Animal Health proposes to amend the above entitled rules without a public hearing. The board has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.22 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 14.22.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Attention Dr. W. J. Mackey
State Board of Animal Health
LL70 Metro Square Building
St. Paul, MN 55101

Authority for the amendment of these rules is contained in Minnesota Statutes section 35.03 (1982). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Dr. W. J. Mackey upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Dr. W. J. Mackey.

The rules proposed for adoption relate to the following matters: The increase in the age of calves eligible for brucellosis vaccination with reduced dosage brucellosis vaccine.

A copy of the proposed rule amendment is attached to this notice.

J. G. Flint, D. V. M.
Secretary and Executive Officer

Rule as Proposed

3 MCAR § 2.011 Eradication of bovine and bison brucellosis.

A. Definitions:

1.-7. [Unchanged.]

8. "Official brucellosis calfhood vaccinate" means female dairy cattle under 20 months of age ~~vaccinated against brucellosis while from two through five months of age (60-179 days)~~ and female beef cattle under 24 months of age vaccinated against brucellosis ~~while from two through seven months of age (60-239 days) in accordance with these rules by the product~~ and at the age indicated in a. or b.

a. Brucella abortus vaccine, strain 19, live culture, standard dose:

(1) female dairy cattle vaccinated while they are from two through five months of age;

(2) female beef cattle vaccinated while they are from two through seven months of age.

b. Brucella abortus vaccine, strain 19, live culture, reduced dose:

(1) female dairy and beef cattle vaccinated while they are from four through ten months of age.

9.-16. [Unchanged.]

B. General requirements.

1.-9. [Unchanged.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

10. Official vaccination:

a. [Unchanged.]

b. Brucella abortus vaccine, strain 19, live culture, standard dose, may be administered to female dairy cattle while they are from two through five months of age (~~60-179 days~~) and female beef cattle while they are from two through seven months of age (~~60-239 days~~). Brucella abortus vaccine, strain 19, live culture, reduced dose, may be administered to female dairy and beef cattle while they are from four through ten months of age.

c.-e. [Unchanged.]

C.-F. [Unchanged.]

State Board of Education (State Board for Vocational Education) Department of Education Vocational-Technical Division

Proposed Rule Governing Chapter Thirty-Nine: Rules for Licensure of Vocational Education Personnel (5 MCAR § 1.0790)

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the State Board of Education (State Board for Vocational Education) proposes to adopt the above-entitled rules without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28.

These rules govern the post-secondary vocational instructional personnel licensure in the Technical Education area of robotics technician.

Persons interested in these rules shall have 30 days following publication in the *State Register* to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.11 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Dr. Rosemary T. Fruehling
Division of Vocational-Technical Education
541 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minn. Stat. §§ 121.11, subd. 12; 121.21, subd. 6; and 125.185, subd. 4. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and is available from Dr. Rosemary T. Fruehling upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Dr. Rosemary T. Fruehling.

A copy of the proposed rules is attached to this notice.

A free copy of this notice and the proposed rules are available and may be obtained by contacting Dr. Rosemary T. Fruehling.

August 9, 1983

Ruth E. Randall, Secretary
State Board of Education
(State Board for Vocational Education)

Rule as Proposed

5 MCAR § 1.0790 Post-secondary vocational instructional personnel.

A.-B. [Unchanged.]

C. Uncharted licensure criteria; robotics technician. To qualify for a license, an applicant in a licensure area not charted in 5 MCAR § 1.0798, must comply with 5 MCAR § 1.0781, 1.0782, 1.0784 C., and 1.0785, and specifically in the area of technical education/robotics technician, must present evidence of completion of the following education and occupational experience requirements. For the purpose of 5 MCAR § 1.0790 C., the term "approved program" means schools or institutions offering post-secondary education licensed in Minnesota, or military training.

1. Education requirement. An applicant must have completed at an approved program either:

a. two years (2,160 clock hours) post-secondary vocational-technical training focusing on technician level training in the areas of fluid power, electronics, automated packaging, industrial engineering, electro-mechanical technology, or industrial technology; or

b. a degree program in mechanical, electrical, or aero-space engineering at the baccalaureate level or higher.

2. Occupational experience requirement. An applicant must have 2,000 hours of experience within the last five years in robotics or programmable automation, and 4,000 hours of experience focusing on the technical application of electronics emphasizing computer technician or computer programmer skills; fluid power mechanics; manufacturing processes applications; or electro-mechanical technology.

Department of Employee Relations

Proposed Rules Governing the State Personnel System (2 MCAR §§ 2.225; 2.2301; 2.303; 2.406; 2.409 and 2.413)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Employee Relations proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 5.0412, subdivision 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mark L. Sundquist
3rd Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
296-8933

Authority for the adoption of these rules is contained in Minnesota Statutes section 43A.04, subd. 3. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Mark Sundquist upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mark Sundquist.

The rules proposed for adoption relate to the following matters: 2 MCAR § 2.225 is being repealed; the definition of Handicapped as stated in 2 MCAR § 2.225 is being incorporated into 2 MCAR § 2.303; 2 MCAR § 2.301 is being repealed because it is obsolete; 2 MCAR §§ 2.406, 2.409 and 2.413 are being revised to conform with Federal Social Security laws. A copy of the proposed rules is attached to this notice.

Nina Rothchild
Commissioner of Employee Relations

Rules as Proposed

2 MCAR § 2.303 Definitions.

A.-K. [Unchanged.]

L. "Handicapped" means any person who:

1. has a physical or mental impairment which substantially limits one or more major life activities;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

"Handicapped" does not include any individual who is an alcohol or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question or whose employment, by reason of the current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

L.-T. [Reletter as M.-U.]

2 MCAR § 2.406 Collecting and remitting tax.

A. [Unchanged.]

B. Schedule. After the reporting unit has provided the matching amount, the total social security contribution must be remitted to the state agency for credit to the social security contributions fund in accordance with the following schedule:

1. For each month, the social security contributions due on the wages paid must be forwarded to the state agency within the 15-day period following the end of each month beginning with July 1980. If the last day of the 15-day period is a legal holiday or a nonwork day, the social security contribution payment is due on the next work day. Effective with wages paid after December 31, 1983, social security contributions due on wages paid during the period from the first day through the 15th day of each calendar month must be forwarded to the state agency on or before the 20th day of the month. The remittance must be postmarked not later than the 20th day of that month. Social security contributions due on wages paid during the period beginning with the 16th day of each calendar month and ending with the last day of that calendar month must be forwarded to the state agency on or before the fifth day of the following calendar month. The remittance must be postmarked not later than the fifth day of the following month.

2.-4. [Unchanged.]

5. If any monthly contribution payment is not received by the state agency within the deadlines specified in 1., the state agency shall charge interest to the reporting unit. The interest rate assessment must be six percent a year on the same rate of interest charged the state by the Social Security Administration applied to the contribution due for each month or part of a month from the due date, but in no case may the interest charge be less than \$5.

2 MCAR § 2.409 Reporting unit's failure to pay state agency.

If a reporting unit fails to make the social security contribution payments required by law and this chapter, the state agency may recover by bringing action in a court of competent jurisdiction against every political subdivision liable for payments. The state agency may recover either the delinquent payments due with interest of six percent a year at the rate established in 2 MCAR § 2.406 B.5. or the minimum penalty established by this chapter, whichever is greater. Alternatively, at the state agency's request, the delinquent payments may be deducted from any other money payable to the political subdivision by any department or agency of the state.

2 MCAR § 2.413 Quarterly reports before 1981.

A.-E. [Unchanged.]

F. Interest on overdue reports. If any quarterly report is not received by the state agency within the respective established deadlines, interest will be charged to the reporting unit at the rate of ~~six percent a year~~ established in 2 MCAR § 2.406 B.5. on reportable contributions for each month or part of a month from the date due, but the interest charge or penalty shall not be less than \$5.

Repealer. Rules 2 MCAR §§ 2.225 and 2.2301 are repealed.

Minnesota Higher Education Coordinating Board

Proposed Temporary Rule Governing State Scholarship and Grant-in-Aid, and Part-Time Student Grants

Request for Public Comment

Notice is hereby given that the Minnesota Higher Education Coordinating Board has proposed the following temporary rule for the Scholarship and Grant-in-Aid and Part-Time Student Grant Programs pursuant to Minnesota Laws 1983, chapter 258, § 67. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rule for 20 days immediately following publication of this material in the *State Register* by writing to:

Rose Herrera Hamerlinck
Minnesota Higher Education Coordinating Board
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Authority for the adoption of this rule is contained in Laws 1983, chapter 258, § 67, and Minnesota Statutes §§ 136A.121 and 136A.132. The proposed temporary rule may be revised on the basis of the comments received. Any written material received will become part of the record in the final adoption of the temporary rule. This temporary rule will be effective for not more than 180 days upon approval by the Attorney General.

A copy of the proposed temporary rule is attached to this notice.

Clyde R. Ingle
Executive Director

Temporary Rules as Proposed

5 MCAR § 2.2101 Scope.

Rules 5 MCAR §§ 2.2101-2.2106 govern state scholarships and grants-in-aid.

5 MCAR § 2.2102 Eligible schools.

Annually ~~by July 31,~~ the board shall adopt by resolution a list of schools at which a state scholarship or grant-in-aid may be used. To be eligible a school must meet the following requirements:

1.-3. [Unchanged]

5 MCAR § 2.2103 Application dates and student eligibility.

A.-B. [Unchanged]

C. Eligibility for initial grant-in-aid. To be eligible for an initial grant-in-aid a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and all of the following:

1.-3. [Unchanged]

4. if applying for a nursing grant, is enrolled or will be enrolled in a program leading to licensure as a registered nurse or a licensed practical nurse;

5. If under 17 years old, a recipient must have a high school diploma or the equivalent.

D. [Unchanged]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

5 MCAR § 2.2104 Ranking applicants.

A. [Unchanged]

B. Priority of classes of applicants. Applicants renewing scholarships shall be given first priority. Applicants renewing grants-in-aid shall be given second priority. Applicants for initial scholarships shall be given third priority. Applicants for initial grants-in-aid shall be given fourth priority. Awards shall be made on a funds available basis. Once an award is made it shall not be withdrawn in order to award an applicant of higher priority.

C. [Unchanged]

5 MCAR § 2.2105 Awards.

A. Monetary awards. ~~Scholarship and grant-in-aid awards range from a minimum of \$100 to a maximum of \$1,400 but may not exceed one half of financial need. If a federal Pell grant and a state scholarship or grant-in-aid exceeds 75 percent of financial need, the state scholarship or grant-in-aid must be reduced so that the combination of the two awards does not exceed 75 percent of financial need. The state scholarship or grant-in-aid must be further reduced if additional gift assistance, in combination with a federal Pell grant and a state scholarship or grant-in-aid, exceeds 100 percent of financial need. The amount of a scholarship or grant-in-aid financial stipend shall not exceed an applicant's cost of attendance, as defined in Minnesota Statutes, section 136.121, subdivision 6, after deducting the following:~~

1. a contribution by the applicant of at least 50 percent of the cost of attending the institution of the applicant's choosing;
2. a contribution by the applicant's parents, as determined by a standardized need analysis; and
3. an estimate of the amount of a federal Pell grant award for which the applicant is eligible.

The minimum financial stipend shall be \$100.

B.-C. [Unchanged]

5 MCAR § 2.2106 Method of payment.

A.-C. [Unchanged]

5 MCAR § 2.2204 Eligible students.

A. Determination of eligibility. A school shall determine if a student is eligible for a part-time student grant. To be eligible a student must be an eligible student as defined in 5 MCAR § 2.0100 D. 2., 3., 5., and 6., except that the student need not be a full-time student, and all of the following. The student must be

1. is pursuing a program or course of study leading to a degree, diploma, or certificate; and
2. is not eligible ineligible for state or federal financial aid, other than a Pell grant; and
3. is not reimbursed unreimbursed for tuition and fees by any source other than a Pell grant; and
4. demonstrates in financial need.

B.-C. [Unchanged]

Minnesota Housing Finance Agency

Proposed Rules Relating to the Innovative Housing Loan Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Judith A. Keiser,
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subs. 4 and 11. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Judith A. Keiser upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Judith A. Keiser.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Judith A. Keiser.

Please be advised that Minn. Stat. ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

September 9, 1983

James J. Solem
Executive Director

Rule as Proposed

12 MCAR § 3.120 Applications for innovative housing loans.

To be eligible to be selected for an innovative housing loan, to be made from the fund established pursuant to Minnesota Statutes, sections 462A.05, ~~subd.~~ subdivision 18 and 462A.21, ~~subd.~~ subdivision 9, each applicant must satisfy the following requirements:

- A. The applicant must be a nonprofit entity or a limited dividend entity.
- B. The project must be located in ~~the State~~ of Minnesota.
- C. Satisfactory evidence must be presented of the applicant's ability to organize and to complete the project for which the innovative housing loan is requested.
- D. The project may be a limited-unit development or a multi-unit development, but must be designed for, and intended for occupancy primarily by, persons and families of low or moderate income.
- E. Satisfactory evidence must be presented that a loan is not otherwise available from private lenders upon reasonable terms and conditions.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

F. Satisfactory evidence must be presented that the applicant has or will have the ability to repay the innovative housing loan and to obtain other financing, if needed, at the expiration of the term of the loan.

G. The project must be innovative; that is, it must involve the use of equipment or materials or of a method of design, construction, marketing, or financing which is not generally in use in the housing industry or of which the public is not generally aware.

Minnesota Housing Finance Agency

Proposed Rules Relating to Income Limits for the Medium Density Housing Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Judith A. Keiser
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subs. 4 and 11. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Judith A. Keiser upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Judith A. Keiser.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Judith A. Keiser.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

September 9, 1983

James J. Solem
Executive Director

Rule as Proposed (all new material)**12 MCAR § 3.037 Medium density housing program loans.**

For the purpose of medium density housing program loans, "persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.037-1 or a lower amount as required to assure that the interest on obligations of the Minnesota Housing Finance Agency will be exempt from federal income taxation.

Exhibit 12 MCAR § 3.037-1**Maximum Adjusted Income for
Medium Density Housing Program Loans**

Mortgage Interest Rate	Maximum Adjusted Income
0-10.59%	\$30,000
10.60-11.09%	\$31,000
11.10-11.59%	\$32,000
11.60-12.09%	\$33,000
12.10-12.59%	\$34,000
12.60% and over	\$35,000

Office of the Secretary of State

Proposed Rules for Administrative and Automatic Election Recounts (1 MCAR §§ 2.4001-2.4012); Proposed Amendments to Rules for Voter Registration (1 MCAR §§ 2.0101-2.1101); Proposed Amendments to Rules for Preparation of the White Ballot (1 MCAR §§ 2.2101-2.2115); Proposed Amendments to Rules for Certification and Experimental and General Use of Voting Machines (1 MCAR §§ 2.3101-2.3907); Proposed Amendments to Rules for Absentee Voting and Delivery Procedures (1 MCAR §§ 2.4101-2.4205)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-captioned rules without a public hearing. The Secretary of State has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.21-14.28 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Shirley Zikmund
Election Procedure Advisor
Office of the Secretary of State
180 State Office Building
St. Paul, MN. 55155-1299

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Authority for the adoption of these rules is contained in Laws of 1983, ch. 253, sections 17 and 18; Minn. Stat. §§ 201.221; 203B.09; 204D.11, subd. 1; and 206.08, subd. 1 (1982) as amended by Laws of 1983, ch. 301, § 163. Additionally, a statement of need and reasonableness that describes the need and reasonableness of each provision of the proposed rules and amendments has been prepared and is available from Shirley Zikmund upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Shirley Zikmund.

(A copy of the proposed and amended rules is attached to this notice).

Joan Anderson Growe
Secretary of State

Rules as Proposed (all new material)

1 MCAR § 2.4001 Automatic and administrative recounts.

Rules 1 MCAR § 2.4001-2.4011 establish procedures for the conduct of all automatic and administrative recounts provided for in Minnesota Statutes, sections 204C.35 and 204C.36. The secretary of state or secretary of state's designee is the recount official for recounts conducted by the state canvassing board. The county auditor or auditor's designee is the recount official for recounts conducted by the county canvassing board. The county auditor or auditor's designee shall conduct recounts for county offices. The municipal clerk or clerk's designee is the recount official for recounts conducted by the municipal governing body. "Legal advisor" means counsel to the recount official and the canvassing board for the office being recounted. The scope of an automatic or administrative recount is limited to the recount of the ballots cast and the declaration of the person nominated or elected.

1 MCAR § 2.4002 Notice.

Within 24 hours after determining that an automatic recount is required or within 48 hours of receipt of a written request for a recount and filing of a bond if one is required, the official in charge of the recount shall send notice to the candidates for the office to be recounted. The notice may also be posted or published. The notice must include the date, starting time, and location of the recount, the office to be recounted, and the name of the official performing the recount. The notice must state that the recount is open to the public, and in case of an automatic recount, that the losing candidate may waive the recount.

1 MCAR § 2.4003 Securing ballots and materials.

The official who has custody of the voted ballots is responsible for keeping secure and making available to the recount all election materials. Registration cards of voters who registered on election day may be processed as required by 1 MCAR § 2.0502. All other election materials must be kept secure by precinct as returned by the election judges until all recounts have been completed and until the time for contest of election has expired.

1 MCAR § 2.4004 Securing voting machines.

Where lever voting machines or electronic voting systems are used, the machines and marking devices must remain sealed and locked under the supervision of the municipal clerk. No candidate, candidate's representative, or other person, except an election official carrying out election responsibilities, may be granted access to the voting machines or marking devices. The election official having custody of the machines or marking devices is responsible for security of the machines and restricting access to them. All counting programs for electronic voting systems must be preserved in the manner required for voted ballots, and the official in charge of the jurisdiction shall certify that the true program used in the election has not been altered in any way and is available for the recount.

1 MCAR § 2.4005 Facilities and equipment.

All recounts must be accessible to the public. In a multi-county recount the secretary of state may locate the recount in one or more of the election jurisdictions or at the site of the canvassing board. Each election jurisdiction where a recount is conducted shall make available without charge to the recount official or body conducting the recount adequate accessible space and all necessary equipment and facilities. Where an electronic voting system is used, the jurisdiction must make available without charge to the recount official or body conducting the recount the counting program used in the election, computers, services of technical personnel, and other equipment and facilities necessary to conduct the recount.

1 MCAR § 2.4006 General procedures.

At the opening of a recount the recount official or legal advisor shall present the procedures contained in this rule for the recount. The custodian of the ballots shall make available to the recount official the precinct summary statements, the precinct boxes or containers containing the sealed envelopes of voted ballots, and any other election materials requested by the recount

official. No ballots or election materials may be handled by candidates, their representatives, or members of the public. The recount official shall arrange the counting of the ballots so that the candidates or their representatives may observe the ballots as they are recounted. The recount official shall ensure that public observation does not interfere with the counting of the ballots. The recount official shall prepare a summary of the recount vote by precinct.

1 MCAR § 2.4007 Paper ballots.

Ballots must be recounted by precinct. The recount official shall open the sealed envelope of ballots and recount them in accordance with Minnesota Statutes, section 204C.22. If a candidate or candidate's representative disagrees with the recount official's determination of how the ballot should be counted, the ballot may be challenged. Challenges may not be automatic or frivolous and the challenger must state the basis for the challenge. The precinct name, the reason for the challenge, and the name of the candidate challenging the ballot must be marked on the back of each challenged ballot before it is placed in an envelope marked "Challenged Ballots." After the count of votes for the precinct has been determined, all ballots except the challenged ballots must be resealed in the ballot envelopes and returned with the other election materials to the precinct boxes. After the count of votes for all precincts has been determined, the challenged ballot envelope must be sealed and kept secure for presentation to the canvassing board.

1 MCAR § 2.4008 Lever voting machines.

In precincts where lever voting machines are used, the recount official shall compare the number of votes cast for each candidate as shown on the voting machine to the number of votes for each candidate recorded by the election judges from the same voting machine. Machines must be read by precinct. Only the recount official and authorized election officials may open, read, or in any way touch or handle the voting machine. The recount official shall arrange the counting so that the candidates and their representatives may observe the recorded votes on the voting machines. Absentee paper ballots must be counted in accordance with 1 MCAR § 2.4007. After the count of votes has been determined for the precinct, the absentee ballots must be resealed in their envelope and returned with the other materials to the precinct box. A statement of recount results must be made for each precinct showing the machine number for each machine and the number of votes recorded for each candidate recorded on that machine.

1 MCAR § 2.4009 Electronic voting systems.

In a precinct where an electronic voting system is used, the ballot cards must be recounted on the automated equipment. A test of the program and counting equipment as provided in 1 MCAR § 2.3901 must be made immediately prior to the recount. Access to the immediate area of the automatic counter or computer is limited to the recount official and legal advisor, officials of the election jurisdiction, the candidates and their representatives, and the technical persons necessary to the operation of the counting equipment. An observation area must be provided for the public. Ballots must be recounted by precinct. Paper absentee ballots must be counted in accordance with 1 MCAR § 2.4007. A machine-produced report of recount results must be provided for each precinct. After the count of ballots for a precinct has been determined, all ballot cards and paper absentee ballots must be resealed in the ballot container and returned with the other materials to the precinct box.

1 MCAR § 2.4010 Canvassing board.

The recount official shall present the summary statement of the recount and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for the challenge to the canvassing board. The canvassing board shall rule on the challenged ballots and incorporate the results into the summary statement. The canvassing board shall certify the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots.

1 MCAR § 2.4011 Security deposit.

When a bond, cash, or surety for recount expenses is required by Minnesota Statutes, section 204C.35 or 204C.36, the governing body or recount official shall set the amount of security deposit at an amount which will cover expected recount expenses. In multi-county districts, the secretary of state shall set the amount taking into consideration the expenses of the election jurisdictions in the district and the expenses of the secretary of state. The security deposit must be filed during the period for requesting an administrative recount. In determining the expenses of the recount, only the actual recount expenditures incurred by the recount official and the election jurisdiction in conducting the recount may be included. General office and operating costs may not be taken into account.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

I certify that I will be at least 18 years old on election day and the above facts are correct. I understand that giving false information to procure a registration is a felony punishable by not more than 5 years imprisonment and a fine of not more than \$5,000, or both.

_____/_____/_____
Date

X Legal Signature of Voter
Be sure to sign the blue card

VOTER REGISTRATION CARD. Type or print in ink.

X Name
Last First Middle

W P
S.D. No.

X Township or City of Legal Residence
Township or City County

OFFICE USE ONLY
Election Day Voter
Registration Proof
... Driver's License
... Minn. I.D. Card
... Witness
... Prior Registration
... Student I.D..

X Complete Address of Legal Residence (include street or rural mail route address)

House No. and Street or Rural, Rte. No.

.....
(Number if applicable)

Apt. No. or Rural Box No. City Zip

X Date of Birth / /
Month Day Year

Telephone No.

X Address of Your
Last Registration

House No./Street Name or Rte./Box No. Apt. No.
or
.....
Check if City or Township County State Zip
NONE

Previous Name (If changed since last registration)

CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

I certify that I will be at least 18 years old on election day and that I am a citizen of the United States, reside at the address shown above and will have resided in Minnesota for 20 days immediately preceding election day, and that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored. I understand that giving false information to procure a registration is a felony punishable by not more than five years imprisonment and a fine of not more than \$5,000, or both.

.../.../...
Date

X Legal Signature of Voter
Also sign the blue card.

In the upper right hand corner of the card there shall must be a box marked for "office use only". In the box there shall be which contains "W___," "P___," and "S.D. No. ___." (These initials stand for "ward," "Precinct," and "school district.") Other information may also be included. Judges of election shall record the type of election day voter registration proof and its number, if any, in the "office use only" box.

C. The duplicate voter registration card shall must be in the following form:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

PROPOSED RULES

DUPLICATE VOTER REGISTRATION CARD

Sign this card DO NOT COMPLETE

The information will be typed by the voter
registration office

X Name _____
Last First Middle

X Legal Residence _____
Street or Route No.

Apt. No. and Rural Box No. _____

City or Township County Zip
(Check whichever is applicable)

Mailing Address (if different from above) _____
Street or Route No.

Apt. No. and Rural Box No. _____ City or Township County Zip

Telephone Number _____

Date of Birth (optional) _____

Previous Name _____

Address of Your Last Registration If Any _____
(if changed since last registration)

Street or Route No. Apt. No.

City of Township County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER.

_____/_____/_____
Date

X _____
Legal signature of Voter
(for identification only)

Date

Legal signature of Voter
(for identification only)

DUPLICATE VOTER REGISTRATION CARD

Sign this card—do not complete

The information will be typed by the
voter registration office

Name _____

Township or City _____

of Residence _____/_____/_____

Township or City County

Complete Address of Legal Residence _____

House Number and Street or Rural Route Number _____

Apt. No. or Rural Box Number City Zip

Read the Instructions to Determine Whether You are Qualified to Register

.../.../...

Date

Office Use Only

W. P.

S.D. No.

X _____

Legal Signature of Voter
(For identification only)

In the upper right hand corner of the card there shall must be a box marked for "office use only"; In the box there shall be: which contains "W ____," "P ____," and "S.D. No. ____." (These initials stand for "ward," "precinct," and "school district.") Other information may also be included.

D. Instruction card; form. The instruction card shall must be in the following form:

**INSTRUCTIONS FOR VOTER REGISTRATION
READ CAREFULLY BEFORE REGISTERING**

Lines indicated by an (X) must be completed by the registrant before his or her registration may be accepted.

1. ~~Print in ink or type all information requested on white card.~~
2. ~~Print or type your legal name Do not use nicknames.~~
3. ~~Your residence should be that place where you actually live. Check the appropriate box indicating whether you live in a city or township.~~
4. ~~Print or type your mailing address if it is different from your residence address.~~
5. ~~Place your telephone number (optional) on the appropriate line.~~
6. ~~Place your date of birth (optional) on the appropriate line.~~
7. ~~If your name has been changed through marriage, divorce or decree or order of court since your last voter registration, print or type your former name on the appropriate line.~~
8. ~~Address of last previous registration Print or type the address from which you were last registered to vote. If you have never been registered to vote before, print or type "none".~~
9. ~~After the white card is completed, sign your full name in ink and fill in the date on the white card.~~
10. ~~SIGN THE BLUE CARD.~~
11. ~~The blue card must be signed in ink on the line where it is required, but do not fill in the blue card. It will be typed in by the voter registration office.~~
12. ~~After the white card is completed and both cards are signed, seal using sealing tab attached.~~
13. ~~Complete the address on the reverse of the white registration card by filling in the name of the county where you reside and the name of the city which is the county seat. Mail or deliver to the office of the county auditor.~~

Instructions for Voter Registration
Read Carefully Before Registering

LINES INDICATED BY A RED "X" MUST BE COMPLETED BY THE REGISTRANT BEFORE THE REGISTRATION WILL BE ACCEPTED.

1. Print in ink or type all information requested on the white card.
2. Print or type your legal name—nicknames are not acceptable.
3. Print or type the name of the township or city in which you live and are eligible to vote.
4. Print or type the house number and street name or the rural route and box number where you live.
5. Include your full birthdate—month, day, and year.
6. Give the address where you were last registered. If you have never been registered before, check the box for "none."
7. Give your previous name if it has been changed since you last registered.
8. Enter telephone number in appropriate space (optional).
9. Date and sign the WHITE CARD with your legal written signature.
10. Date and sign the BLUE CARD with your legal written signature.
11. Review the cards to determine that they are correctly completed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

12. Fold the form, use the sealing tab, and mail or return to your county auditor at your county courthouse. An eligible voter is a person who at the time of any election:

- a. is 18 years of age or older;
- b. is a citizen of the United States; and
- c. has resided in Minnesota for 20 days.

The following persons are not eligible voters:

- a. any person who has been convicted of a felony or treason, whose civil rights have not been restored;
- b. any person who is under guardianship of the person;
- c. any person who has been found by a court to be legally incompetent, whose civil rights have not been restored.

E.-H. [Unchanged.]

1 MCAR § 2.0507 Notification of registration.

When a county auditor receives a registration card listing a prior registration in another county, the auditor shall promptly notify the auditor of the other county, but in no case shall the notice be sent later than three months from the date the registration was received or postmarked.

1 MCAR § 2.0509 Prior residence outside Minnesota.

When a county auditor receives a registration card which lists a former registration in a state other than Minnesota, the auditor shall promptly notify the secretary of state of the state of former registration that the person has registered to vote in Minnesota.

1 MCAR § 2.1005 Electronic or automatic data processing system of maintaining duplicate voter registration records.

A.-C. [Unchanged.]

D. Duplicate registration file. The duplicate registration file to be used on election day in the polling place shall must be in the form of a precinct election list. The list shall must be arranged alphabetically by voter's last name or in order of street address. Whichever arrangement is used shall must be used consistently in all the precincts of the political subdivision.

Conspicuously at the top of each page of the precinct election list shall must be printed precinct identifying information and the words:

*OATH

I certify that I am at least 18 years of age, and a citizen of the United States; that I reside at the address shown and have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, or been convicted of a felony without having my civil rights restored; and that I am registered and will be voting only in this precinct.

The precinct election list shall must contain the following information for each registered voter:

1. registrant's name as it appears on the original registration card;
2. registrant's address;
3. month and, day, and year of registrant's birth; and
4. notations about challenges, notices of guardianship, or other special information required to be affixed to the original or duplicate voter registration card.

Directly underneath or next to the voter's name shall must be printed *OATH and a line indicating the place for the voter to sign the list. Sufficient space shall must be provided so that the voter's signature will not obscure any voter's name. In no case shall may the space be smaller than 1/2 by 3 1/2 inches.

If any computer identification numbers or other information not required by this rule is printed on the precinct election list, it shall may not obscure required information or be printed in a manner to cause confusion for voters or election judges.

A separate precinct list in the same format shall must be prepared for use by voters who register on election day. The newly registered voter shall print on the list the voter's name, address, and month and, day, and year of birth and shall sign the precinct election list.

In a split precinct, separate lists shall must be prepared for each part of the precinct with specific information differentiating the split printed at the top of each list.

PROPOSED RULES

The precinct election list ~~shall~~ must be ready no later than three days prior to any election.

The election jurisdiction may choose to attach forms required by 1 MCAR § 2.0513 for emergency voting as part of the precinct election list. If separate cards are used, the election judges ~~shall~~ must return the cards with the list.

E. Request for birthdate. Prior to the first election at which electronic or automatic data processing equipment is used in place of the duplicate registration file, and prior to the subsequent statewide general election, the county or municipality ~~shall~~ must send a request for the voter's birthdate to each previously registered voter whose ~~month and day of birth~~ birthdate is not included in the duplicate registration file.

The request for a voter's birthdate ~~shall~~ must be in the form of a nonforwardable mailed notice with a postage prepaid return form. The notice ~~shall~~ must include the following information:

1. At the next election in (name of political subdivision) the duplicate registration file for use at the polling place will be prepared by automatic data processing equipment. The ~~month and day~~ birthdate of each registered ~~voter's birth~~ voter will be used as an additional identifier and precaution against fraud.

2. Please fill in your the month and, day, and year of your birth on the enclosed return form, correct any information that is not printed properly on the form, sign the form, and mail it to (name of political subdivision). Return postage has been prepaid. ~~Only the month and day of your birth are requested; the year of your birth is not needed.~~

3. You will NOT lose your registration if you do not provide this information or return this form, but your cooperation will be appreciated and helpful to election officials.

The return form ~~shall~~ must include the following material:

The voter's name and address, preprinted as they appear in the duplicate registration file.

.....

.....
<u>month of birth</u>	<u>day of birth</u>	<u>year of birth</u>
.....		
.....
<u>(month of birth)</u>	<u>(day of birth)</u>	<u>(year of birth)</u>
.....		
voter's signature		

When a request for birthdate is returned as undeliverable by the post office, it ~~shall~~ must be treated as a returned verification notice pursuant to Minnesota Statutes, section 201.12.

F. [Unchanged.]

G. Absentee voting. When an absentee ~~ballot~~ return envelope is marked "Accepted" pursuant to Minnesota Statutes, section 203B.12, subdivision 3, the election judge shall place the letters "A.B." in the space for the voter's signature on the precinct election list followed by the judge's initials.

When a ~~ballot~~ return envelope is accepted from a voter who registers on election day by including a registration card with the absentee ballot, the election judge shall print the voter's name, address, and month and, day, and year of birth and the letters "A.B." in the appropriate places on the precinct election list.

H.-I. [Unchanged.]

J. Voter registration cards. ~~Any voter registration accepted by a county or municipality after the date of its notification to the Secretary of State of the election under Minn. Stat. § 201.071, subd. 5, and this rule, is defective if it does not contain the day and month of birth of the registrant.~~ Voter registration cards must conform to the specifications of 1 MCAR § 2.0301, ~~except that the card and instructions must be modified to indicate that the day and month of birth are not optional.~~

1 MCAR § 2.2101 Definition.

The "white ballot" is the ballot used at general elections and is the paper ballot on which are printed the names of the candidates nominated for the offices of senator and representative in Congress, senator and representative in the Legislature, governor and lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general ~~and chief justice and associate justice of the Supreme Court.~~

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

1 MCAR § 2.2102 Auditor's duties.

The white ballot shall be prepared under the direction of the county auditors in a sufficient number to enable the clerks to comply with the provisions of Minnesota Statutes, section 204B.29. It shall be the duty of the county auditors to prepare and print the white ballot as soon as practicable, but in no event less than ~~15~~ 20 days before the election. Two weeks before the general election the auditor shall file sample copies of the white ballot in his office for public inspection. Ballots for distribution in the polling place must be bound in pads of 50.

1 MCAR § 2.2106 Offices.

The offices ~~shall~~ must appear on the white ballot in the following order and ~~shall~~ must be identified as follows in upper case letters:

~~“UNITED STATES SENATOR IN CONGRESS”~~
~~“UNITED STATES REPRESENTATIVE IN CONGRESS”~~
~~“SENATOR IN THE LEGISLATURE”~~
~~“REPRESENTATIVE IN THE LEGISLATURE”~~
~~“GOVERNOR AND LIEUTENANT GOVERNOR”~~
~~“SECRETARY OF STATE”~~
~~“STATE AUDITOR”~~
~~“STATE TREASURER”~~
~~“ATTORNEY GENERAL”~~
~~“CHIEF JUSTICE OF THE SUPREME COURT”~~
~~“ASSOCIATE JUSTICE OF THE SUPREME COURT”~~

~~Any nonpartisan office for which there is no opposition shall appear after any nonpartisan office for which there is opposition.~~ If an office is not to be filled at a general election, the office shall not appear on the ballot. Directly underneath the titles of the offices of representative in Congress and senator and representative in the Legislature ~~shall~~ must be printed in upper case letters ~~and/or~~ and numbers the district (e.g. “SIXTH DISTRICT,” “DISTRICT SIX,” or “DISTRICT 6”) that the person elected will represent. A single vote ~~shall~~ must be cast for governor and lieutenant governor. Each justice of the Supreme Court ~~is deemed to hold a separate office.~~ Directly beneath the titles of the offices of justice of the Supreme Court, each office shall be identified in upper case letters as follows:

~~“FOR THE OFFICE OF ASSOCIATE JUSTICE (or CHIEF JUSTICE) OF THE SUPREME COURT TO WHICH (name of justice) WAS ELECTED FOR THE REGULAR TERM (or WAS APPOINTED)”~~

~~The appropriate designation shall be printed on the ballot with the name of the justice whose successor is to be elected printed in the appropriate place. At least 32 days before the general election, the secretary of state shall certify to the county auditors the order in which the offices of associate justice shall appear.~~

1 MCAR § 2.2109 Designation of candidates.

Above or below the name of each candidate for a partisan office ~~shall~~ must appear in upper and lower case letters the designation in not more than three words of the party or principle the candidate represents. Words used in the name of a political party as defined in Minnesota Statutes, section 200.02, subdivision 6, may not be used to identify the party of a candidate of any other party. The word “nonpartisan” may not be used in the designation of any candidate. ~~The words “Nominated Without Party Designation” in upper and lower case letters shall appear above or below the name of each candidate for a nonpartisan office.~~ If a justice of the Supreme Court is a candidate to succeed himself, the word “Incumbent” shall be printed in upper and lower case letters on the same line and following the candidate's name. ~~The words “Nominated by Petition” shall be printed in upper and lower case letters on the same line and to the right of the name of the candidate.~~

1 MCAR § 2.2110 Order of candidates.

Before a general election, the secretary of state shall certify to the county auditors the order in which the names of the candidates representing the political parties as defined in Minnesota Statutes, section 200.02, subdivision 6, ~~shall~~ must appear for every partisan office on the white ballot. Candidates nominated by petition ~~shall~~ must appear on the ballot beneath the names of the candidates of the political parties as defined in Minnesota Statutes, section 200.02, subdivision 6, and in the order in which the petitions were filed with the filing officer. ~~The names of the candidates for nonpartisan offices shall be rotated on the white ballot so that each name appears substantially an equal number of times at the top, at the bottom and at each intermediate place in the group of candidates for an office.~~

1 MCAR § 2.2112 Type styles and sizes.

The words “Put an (X) in the square opposite the name of each candidate you wish to vote for” ~~shall~~ must be printed in upper and lower case in as close to 8-point Century Bold type as practicable.

PROPOSED RULES

The words "STATE GENERAL ELECTION BALLOT;" ~~shall~~ must be printed in upper case in as close to 18-point Franklin Gothic type as practicable.

The office and its identification ~~shall~~ must be printed in upper case in as close to 10-point Century Bold type as practicable.

The words "VOTE FOR ONE" ~~shall~~ must be printed in upper case in as close to 8-point Century Bold type as practicable.

The names of the candidates ~~shall~~ must be printed in upper case in as close to 8-point Century Bold type as practicable.

The party designation or political principle ~~and the words "Nominated Without Party Designation," "Incumbent" and "Nominated by Petition"~~ shall must be printed in upper and lower case in as close to 8 point Century Bold type as practicable.

The words "OFFICIAL BALLOT" on the back of the ballot ~~shall~~ must be printed in upper case in as close to 18-point Cheltenham Bold as practicable, the date in upper case in as close to 8-point Antique as practicable, and the word "Judge" in upper and lower case in as close to 10-point Caslon Old Face Italic as practicable.

1 MCAR § 2.2114 Example ballots.

At least 32 days before a general election, the secretary of state shall supply each auditor with a copy of an example ballot. The secretary of state shall have printed on the ballot the names of all candidates for all statewide office offices appearing on the white ballot. The state white ballot shall conform in all respects to the example ballot.

1 MCAR § 2.2115 Reimbursement of costs. ~~The secretary of state shall reimburse counties for the cost of printing the white ballot, the white sample ballot and the summary statement for white ballot offices and constitutional amendments. On or before December 31 of every general election year and within 45 days of a special election, the county auditor shall submit to the secretary of state a statement of the costs of preparation of these supplies. The statement shall contain the name and address of the printer, the number of white ballots printed, a statement that the white ballot and the summary statement prepared by the county conformed to the form prescribed by the secretary of state, pursuant to Minn. Stat. § 204C.26, subd. 3, the cost to the county of printing and an itemization of costs. White ballot appropriation.~~

Following every state general election, the secretary of state shall calculate and pay to each county its proportionate share of the money appropriated by the state for white ballot costs. Proportionate shares must be based on the number of voters at the election as certified on the county abstract and the total number of congressional, state senate, and state house districts in the county. The amount to be paid per voter must be 80 percent of the money appropriated divided by the total number of persons voting at the election as certified on the state canvassing board report. The amount to be paid per district shall be 20 percent of the money appropriated divided by the aggregate of districts in all counties. No funds may be disbursed to any county until after the county auditor has certified to the secretary of state that the white ballots were printed as prescribed by Minnesota Statutes and 1 MCAR §§ 2.2101-2.2114 and that the summary statement and abstract prepared by the county conformed to the forms prescribed by the secretary of state pursuant to Minnesota Statutes, section 204C.26, subdivision 3.

1 MCAR § 2.3104 Meanings of terms.

A. [Unchanged.]

B. The following terms ~~shall~~ have the meanings given them as follows:

1.-58. [Unchanged.]

59. Voting booth. A structure constructed in a manner prescribed in ~~Minn. Stat. § 204A.11, subd. 2~~ Minnesota Statutes, sections 204B.18 and 206.026 so that the voter while preparing his ballot may be free from observation. Each booth has a facility to hold a voting machine.

60.-62. [Unchanged.]

1 MCAR § 2.3200 Scope.

This chapter pertains to the vendor only. It does not pertain to computer center operators or responsible authorities of election jurisdictions.

1 MCAR § 2.3302 Preparation of test deck or ballot image.

A.-D. [Unchanged.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

E. The test deck ~~shall~~ must conform to ~~1 MCAR § 2.3104 B.50~~ 2.3103 B.50. A test deck ~~shall~~ must be prepared specifically for each election.

F.-O. [Unchanged.]

1 MCAR § 2.3702 Absentee ballots, general provisions.

A. [Unchanged.]

B. All voters requesting absentee ballots shall must be supplied with paper absentee ballots, except as provided by law Minnesota Statutes, section 203B.08, subdivision 1a.

C. [Unchanged.]

1 MCAR § 2.3703 Absentee voting, electronic voting system.

A. Applicability. This rule applies only when municipal clerks administer absentee ballots as provided in Minnesota Statutes, section 203B.08, subdivision 1a, for voters applying in person at the clerk's office for an absentee ballot.

B. Ballot cards. Ballot cards issued to voters under Minnesota Statutes, section 203B.08, subdivision 1a, must conform to all of the provisions of 1 MCAR § 2.3501 A.

C. Ballot labels and voting machines. Ballot labels and voting machines must be prepared as provided in 1 MCAR §§ 2.3501 C. and 2.3502. At least one voting machine must be made ready for each precinct in the municipality and placed in a proper booth or voting station within the building where the office of the clerk is maintained.

D. Demonstrator. A demonstrator voting device must be available to absentee voters and instructions for casting a ballot on an electronic voting system must be offered to each absentee voter by the municipal clerk or an election judge trained under 1 MCAR §§ 2.5101-2.5119.

E. Issuing ballot cards. The municipal clerk shall remove the smaller numbered stub from the ballot card when it is issued to the voter. The smaller numbered stubs must be placed in an envelope marked "Absentee Ballot Stubs" and retained by the municipal clerk in the clerk's office.

F. After voting. The voter shall be instructed to insert the voted card in the ballot envelope and to fold the large numbered stub over the outside of the envelope. The voter shall next insert the ballot envelope in the absentee return envelope and seal it. The certificate of eligibility on the back side of the return envelope must be completed by the voter and a witness, and the voter shall give the municipal clerk the return envelope with the voted ballot card and its envelope sealed inside.

G. Voted ballot cards. Absentee return envelopes with voted ballot cards must be retained by the municipal clerk in a secure container that will not damage the machine readability of the card. The municipal clerk shall deliver the absentee return envelopes with voted ballot cards to the election judges in the appropriate precinct on election day.

H. Processing. When election judges have processed the absentee return envelopes as provided in Minnesota Statutes, section 203B.12, the ballot envelopes must be removed from the return envelopes marked "accepted." The large numbered stub must be removed from each ballot card before each ballot envelope is deposited in the ballot box along with the ballot cards of voters voting in person.

I. Disposition of stubs. The election judges shall attach one large numbered stub to each absentee return envelope marked "accepted" from which a ballot envelope was removed. The stubs can be attached after all of the ballot envelopes have been removed and the large stubs detached.

J. Reconciliation. The return envelopes with stubs attached must be placed with the voter certificates and "accepted" return envelopes of voters casting paper absentee ballots and included in the count to arrive at the total number of persons voting in the precinct. To arrive at the proper number of ballot cards to be tabulated, the "accepted" return envelopes with stubs attached must be counted with the voter certificates and the total must equal the number of ballot cards to be tabulated. The reconciliation of the ballot cards and number of persons voting must be entered on the precinct certification.

1 MCAR § 2.3801 Procedures following close of polls.

A. Ballot cards not issued. All unused ballot cards and envelopes shall which are not issued to voters must be secured for return to the official in charge of the election for the election jurisdiction.

B. [Unchanged.]

C. Total number of voters. The total number of voters, determined pursuant to Minnesota Statutes, section ~~204A.41~~ 204C.20, subdivision 1, shall and 1 MCAR § 2.3703 J. must be entered on the precinct certification.

D. [Unchanged.]

E. Each ballot in its envelope ~~shall~~ must be examined for write-ins. Ballot cards for which no ~~write-in exists~~ shall write-ins exist must be separated from their envelopes and placed in appropriate piles. The envelopes must be placed in a sturdy container, which must be marked with the precinct name, and delivered at the same time the voted ballots are delivered to the county auditor or municipal clerk.

F. [Unchanged.]

G. Hanging chad. The intent of the voter is to be ascertained when processing ballot cards. A ballot ~~cards~~ card with a chad hanging shall must be processed in the following manner:

1. [Unchanged.]

2. Where a chad is found hanging by three corners the ballot card ~~shall be~~ is defective for that office and ~~shall~~ must be placed in the envelope for original cards for which duplicates are to be made at the counting center. ~~(See Chapter Nine, these rules.)~~

H.-J. [Unchanged.]

K. Entries on precinct certification. The election judges shall enter in the appropriate place on the precinct certification the number of ballot cards issued to the precinct, the number of ballot envelopes issued to the precinct, the number of ballot cards issued to voters, the number of spoiled ballot cards, the number of defective ballot cards, the number of cards for which duplicates are to be made for any reason, and the number of ~~unused~~ ballot cards not issued to voters.

L. Items in transfer case. The election judges shall place in the transfer case for delivery to the counting center all of the following items:

1. valid voted ballot cards;

2. ballot envelopes ~~used in the election (unless they are placed and sealed in a separate metal container for separate delivery as determined by the election jurisdiction)~~ with write-in votes;

3. envelope containing paper absentee ballots;

4.-11. [Unchanged.]

If space in the transfer case is inadequate, then a second transfer case or metal container of a type approved by the election jurisdiction for storage of ballots is to be used and the sealing and security handled in the same manner as the transfer case.

M. [Unchanged.]

N. Retention of ballot cards and ballot envelopes. ~~The unused~~ Ballot cards and unused ballot envelopes ~~shall~~ which are not issued to voters must be returned to the election official in charge of the election jurisdiction who shall issue a receipt therefor for them and retain them by precinct until the time for contest has expired.

O. Seal and certificate. The transfer case ~~shall~~ must be sealed with a metal seal ~~in such a manner so as to render that it is impossible to open the case or insert or remove ballots without breaking the seal.~~ Attached to the transfer case by the seal ~~shall~~ must be a certificate signed by the judges indicating its content, the precinct name, and the number of the metal seal used to seal the ~~said~~ case. The seal number ~~shall~~ must also be recorded in the certificate of the election judges. The transfer case certificate ~~shall~~ must be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the metal seal.

P. [Unchanged.]

Q. Delivery of ballot envelope container. The container which holds the ballot envelopes issued to voters must be delivered to the counting center by the same election judges who deliver the transfer case containing voted ballots.

1 MCAR § 2.4104 Absent voter's certificate.

A. Form. Except as provided in D., the Absent Voter's Certificate ~~shall~~ for persons voting under Minnesota Statutes, sections 203B.04 to 203B.15 must be printed in the following form:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

ABSENT VOTER'S CERTIFICATE

OF

(legal name of absent voter)
(print or type)

(legal address of absent voter)
(print or type)

I swear that on election day I will meet the requirements provided by law to vote by absentee ballot.

(legal signature of voter)

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in such a manner that I could not see his vote, he the voter marked the ballots and enclosed and sealed them in the ballot envelope; that if the above-named voter registered to vote by enclosing a voter registration card in the Absentee Ballot Return Envelope, then he provided proof of his residence was provided as indicated below.

(date)

(legal signature of witness)

(print or type name of witness)

(official title if witness is an official)

(legal address if witness is an eligible voter)

FOR REGISTRATION ONLY—Indicate method used by voter to prove residence.

Method used by voter to prove residence:

Driver's License _____
or Permit or _____ (number)
Receipt

Notice of Ineffective Registration

Minn. ID Card or _____
Receipt _____ (number)

Student ID _____
(number)

Registration in
same precinct

(legal signature of registered voter in the precinct who swore to
residence)

(legal address of registered voter in the precinct who swore to
residence)

B.-C. [Unchanged.]

D. Alternative certificates. As an alternative, a county auditor may print two different versions of the absent voter's certificate. One certificate must be provided to absentee voters not previously registered to vote and must be printed as prescribed in 1 MCAR § 2.4104 A. An alternate certificate may be printed in the following form and must be provided only to absentee voters who are registered to vote at the time of application. The certificate must be printed to the specifications of C.

ABSENTEE VOTER'S CERTIFICATE

OF

(print or type legal name of voter)

(print or type legal address of voter)

I swear that on election day I will meet the requirements provided by law to vote by absentee ballot.

.....
 (legal signature of voter)

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in such manner that I could not see, marked the ballots and enclosed and sealed them in the ballot envelope.

.....
 (date)

.....
 (legal signature of witness)

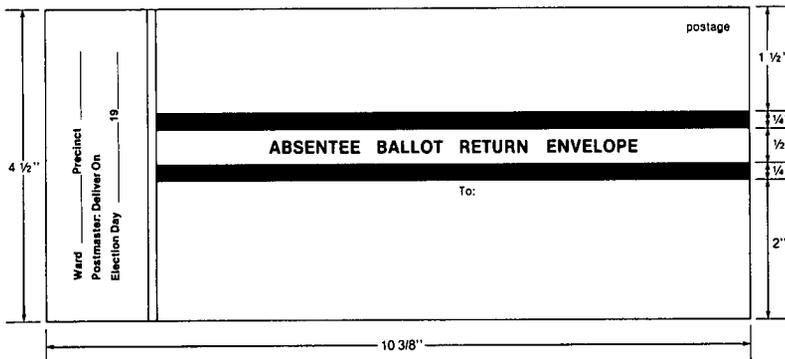
.....
 (print or type name of witness)

.....
 (official title if witness is an official)

.....
 (legal address if witness is an eligible voter.)

1 MCAR § 2.4105 Absentee ballot return envelope as provided by Minnesota Statutes, sections 203B.04-203B.15.

A. Form. The absentee ballot return envelope ~~shall~~ must be printed in the following form:



B. Specifications. The absentee ballot return envelope ~~shall~~ must be printed according to the following specifications:

1. The envelope ~~shall~~ must be 10 3/8 inches by 4 1/2 inches.
2. A solid rule line 1 1/2 picas wide ~~shall~~ must be placed 1 1/2 inches from the top of the envelope and another placed two inches from the bottom of the envelope.
3. The words and numbers printed on the left-hand end of the envelope ~~shall~~ must be in 12 point bold type.
4. The words "ABSENTEE BALLOT RETURN ENVELOPE" printed across the face of the envelope ~~shall~~ must be in 18-point bold type in capital letters.
5. The envelope ~~shall~~ must be white in color with black ink.
6. The flap on the right end of the back side of the envelope may be printed as follows:

.....

.....accepted rejected

.....

.....

Election Judges

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

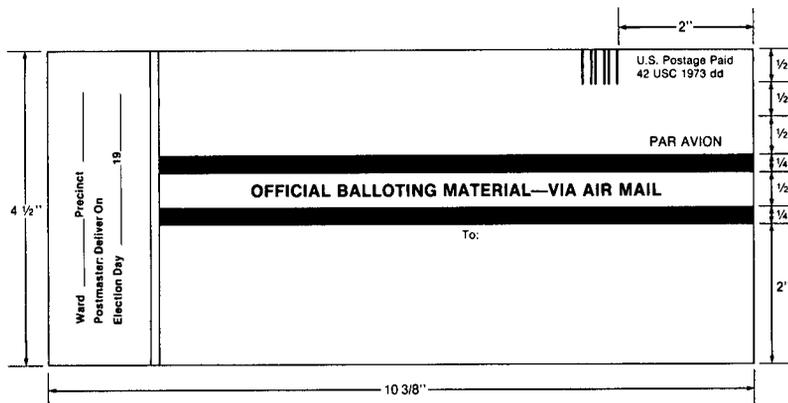
PROPOSED RULES

C.-E. [Unchanged.]

F. County auditors shall notify the secretary of state in the annual report required by Minn. Stat. § 201.091, subd. 5, which methods of returning Absentee Ballot Return Envelopes have been adopted in their counties and where each method is in effect.

1 MCAR § 2.4106 Absentee ballot return envelope as provided by Minnesota Statutes, sections 203B.16 to 203B.17.

A. Form. The absentee ballot return envelope for military and overseas voters must be printed in the following form:



B. Specifications. The specifications in 1.-9. apply to envelopes prepared pursuant to A.

1. The envelope may not be more than 11½ inches in length nor less than five inches in length.

2. The envelope may not be more than 6¼ inches in width nor less than 3½ inches in width.

3. In the upper right hand corner in a space two inches by one-half inch, a postage symbol and box shall be imprinted:

U.S. Postage Paid
42 USC 1973 dd

4. The words PAR AVION must be printed in 12-point bold type in capital letters one-half inch below the postage box.

5. A solid rule line 1½ picas wide must be placed 1½ inches from the top of the envelope. A second solid rule line 1½ picas wide must be placed one-half inch from the bottom of the first line.

6. In the one-half inch space between the two solid rule lines must be printed the words "OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL" in 18-point bold type in capital letters.

7. The envelope must be white in color with Pantone 193 U red ink used for all printing.

8. County auditors or municipal clerks must address the return envelope as provided in 1 MCAR § 2.4105 C.

9. Facing Identification Marks (FIM) must be positioned as specified in United States Postal Service instructions for Facing Identification Marks.

C. On the back of the absentee return envelope provided for in Minnesota Statutes, section 203B.21, an affidavit of eligibility must be printed in the following form on the right hand three-fourths of the envelope:

ABSENT VOTER'S CERTIFICATE

I, _____, do solemnly swear that my present address (or last address) in the
please print or type
 State of Minnesota is at _____ in the City or Town of _____,
 (please print or type) (please print or type)
 County of _____
 (print or type)

PROPOSED RULES

I am qualified to vote the enclosed ballot(s) as (check category that applies) . . . a member of the Armed Forces; . . . a spouse or dependent of a member of the Armed Forces . . . a citizen of the United States temporarily residing outside the territorial limits of the United States; . . . a citizen of the United States permanently residing outside the territorial limits of the United States. I have not cast and will not cast any other ballot in this election. I personally marked the enclosed ballot(s) without exhibiting it to any other person, or which, in case of my physical disability, was marked for me under my personal direction.

.....
(Legal signature of Voter)

Subscribed and sworn to me this . . . day of, 19. . .

.....
(Signature of Witness)

.....
(Give title or office of witness authorized to administer oaths. If an officer of the Armed Forces, a commissioned or noncommissioned officer not below the rank of sergeant or its equivalent.)

1 MCAR § 2.4202 Duties of county auditor or municipal clerk upon receipt of absentee ballot return envelope.

A. Absentee ballot return envelopes which are delivered in person by an absent voter or an agent must be received by the county auditor or municipal clerk by ~~4:30~~ 7:00 p.m. on the day before election day.

B.-C. [Unchanged.]

Repealer. Rules 1 MCAR §§ 2.0901; 2.0902; 2.0903; 2.2113; 2.4102 D. and E. are repealed.

Department of Transportation

Proposed Rules Governing Distribution of Financial Assistance under the Public Transit Assistance Program (14 MCAR §§ 1.4031-1.4065) and Repeal of Existing Rules (14 MCAR §§ 1.4025-1.4030)

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held, pursuant to Minnesota Statutes §§ 14.01-14.20, 14.37-14.38, 14.46-14.47, and 14.48-14.54 (1982) as well as by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules), in the State Office Building, Room 81, 435 Park Street, St. Paul, Minnesota, on October 26, 1983, commencing at 9:30 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner of Transportation has been provided the statutory authority to promulgate rules governing distribution of financial assistance under the public transit assistance program in Minnesota Statutes § 174.23, subdivisions 2 and 7, § 174.24, subdivision 3, and § 174.245, subdivision 2 (1982). The proposed rules, if adopted generally would repeal existing rules and:

1. establish the procedures and standards for review and approval of applications for transit financial assistance,
2. define "total operating cost" as the term is used in carrying out the public transit assistance program,
3. establish uniform performance standards for private operators of regular route transit systems in the Twin Cities metropolitan area transit taxing district, and
4. establish the procedures and standards for review and approval of applications for capital grant assistance.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

For more information pertaining to the rules, see the copy attached. All interested or affected persons will have an opportunity to participate concerning the repeal of existing rules and the adoption of proposed new rules governing distribution of financial assistance under the public transit assistance program. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Bruce Campbell, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7602, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. As stated above, the rule hearing procedure is governed by relevant sections of Minnesota Statutes §§ 14.01-14.52 (1982), as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner. The Department of Transportation hereby requests those submitting written statements to provide a copy of said materials to the Mn/DOT address given below, if possible.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Ms. Nancy Moore
Office of Transit
Program Management Division
Minnesota Department of Transportation
815 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the office of Department of Transportation given above and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule(s). Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed rules are subject to change as a result of the rule hearing process. No new rules may be adopted without re-hearing if substantial change is proposed. The Department of Transportation therefore strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Transportation may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Transportation. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or the department (in the case of the department's submission or resubmission to the Attorney General). You may also call the department for this information at 612/296-7590. The department expects that 50 persons may attend the hearing and it is estimated that 1 to 2 hours will be necessary for the department to present its evidence at the hearing. It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minnesota Statute § 14.11 (1982).

Please be advised that Minnesota Statutes chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes section 10A.01, subdivision 11 as any individual:

- (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or
- (b) Who spends more than \$250.00, not including his own traveling expense and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5148.

Dated this 16th day of August, 1983.

Richard P. Braun
Commissioner

Rules as Proposed (all new material)**14 MCAR § 1.4031 Definitions.**

- A. Scope. The terms used in 14 MCAR §§ 1.4031-1.4065 have the meanings given them in this rule.
- B. Cost. "Cost" means the amount of money asked or paid or the liability incurred for a commodity or service.
- C. Cost contract. "Cost contract" means a cost reimbursement contract under which the contractor receives no fee, operating as a nonprofit organization.
- D. Cost-plus-a-fixed-fee contract. "Cost-plus-a-fixed-fee contract" means a cost reimbursement contract providing for the payment of a fixed fee to the contractor based upon negotiation.
- E. Cost-plus-incentive-fee contract. "Cost-plus-incentive-fee contract" means a cost reimbursement contract providing for a fee adjusted by a negotiated formula relating total allowable costs to target costs.
- F. Cost reimbursement contract. "Cost reimbursement contract" means a contract providing for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract.
- G. Department. "Department" means the Department of Transportation.
- H. Direct cost. "Direct cost" means cost incurred for the benefit of and traceable to a specific activity or incurred for providing a specific service.
- I. Fee. "Fee" means profit and represents a sum of money which is over and above actual costs.
- J. Financial assistance. "Financial assistance" means state funds paid to an eligible recipient in accordance with the public transit subsidy program established under Minnesota Statutes, section 174.24.
- K. Generally accepted accounting principles. "Generally accepted accounting principles" means broad rules adopted by the accounting profession as guides for use in accumulating and reporting financial data and found in the American Institute of Certified Public Accountants Professional Standards, volume 3 "Accounting," published by Commerce Clearing House (Chicago 1979).
- L. Indirect cost. "Indirect cost" means a cost incurred for the benefit of the operating entity as a whole and not traceable to a specific activity.
- M. Negotiation. "Negotiation" means the process of conferring or bargaining to reach agreement.
- N. Operating deficit. "Operating deficit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 5.
- O. Public transit or transit. "Public transit" or "transit" has the meaning given it in Minnesota Statutes, section 174.22, subdivision 7.
- P. Reasonable cost. "Reasonable cost" means a price for a commodity or service which, in its nature or amount, does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business.
- Q. Regional Development Commission. "Regional Development Commission" has the meaning given it in Minnesota Statutes, section 462.384, subdivision 4.
- R. Revenue. "Revenue" means sources of income.
- S. Total operating cost. "Total operating cost" means the cost allowability provisions of 14 MCAR §§ 1.4040 and 1.4042, as well as the fee allowability provisions of 14 MCAR § 1.4043.

14 MCAR § 1.4032 Authority, purpose, and scope.

- A. Authority. Rules 14 MCAR §§ 1.4031-1.4065 are adopted pursuant to Minnesota Statutes, sections 174.23, subdivisions 2 and 7; 174.24, subdivision 3; and 174.245, subdivision 2.
- B. Purpose. The purpose of 14 MCAR §§ 1.4031-1.4065 is to establish the procedures and standards for review and approval of applications for transit financial assistance, to define "total operating cost" as the term is used in carrying out the public transit assistance program, to establish uniform performance standards for private operators of regular route transit systems in the Twin Cities metropolitan area transit taxing district, and to establish the procedures and standards for review and approval of applications for capital grant assistance.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

C. Scope. Rules 14 MCAR §§ 1.4031-1.4065 apply to applicants for financial assistance under the public transit subsidy program established by Minnesota Statutes, section 174.24, and the public transit capital grant assistance program established by Minnesota Statutes, section 174.245.

14 MCAR § 1.4033 Eligible recipient.

“Eligible recipient” means a legislatively established public transit commission or authority, a county or a statutory or a home rule charter city operating or providing financial assistance to public transit, a private operator of public transit, or a combination of them.

14 MCAR § 1.4035 Application for financial assistance through public transit participation program.

An applicant shall request financial assistance using a format prescribed by the department. In addition to submitting an application to the department, an applicant shall submit an application to the appropriate regional development commission for review and approval for consistency with regional transportation plans and development guides. If there is no regional development commission in the area, the applicant shall submit the application to the State Planning Agency for review. When applicable, the application must also be submitted to the local transit authority, commission, or system for review and comment as to consistency with its approved transportation development program.

14 MCAR § 1.4037 Application format.

A. Management plan. Applicants shall include the following information in the management plan:

1. a description of the levels of service to be provided during the contract period, including a discussion of service area, type of service, vehicle descriptions, days and hours of service, contract services, and route maps;
2. a description of the participating transit system’s proposed marketing program, including costs and benefits of major elements;
3. a description of proposed capital improvements in the participating transit system;
4. a description of revenue-producing contracts relating to the transit services provided by or for the applicant;
5. a description of expense contracts for services and goods procured by the transit system;
6. a description of the participating public transit system’s vehicle maintenance program for the period of financial assistance;
7. a description of the organizational structure established to direct, control, review, and implement the management plan;
8. a description of measurable goals and objectives for the transit system, illustrating the benefits expected to be realized by the investment of state financial assistance;
9. a description of how revenue will be generated through the fare box;
10. a listing of transit and paratransit systems and their union affiliations currently operating in the applicant’s area, and a description of existing or potential coordination with these systems;
11. a description of the driver selection process; and
12. a description of the proposed insurance carrier and the limits of coverage.

B. Operations report. Applicants shall include the following information in the operations report on forms provided by the department:

1. actual statistics on operating expenses and operating revenues for the most recent 12-month period;
2. anticipated statistics on operating expenses and operating revenues for the new contract period;
3. actual statistics on miles and hours of service and passengers carried for the most recent 12-month period; and
4. anticipated statistics on miles and hours of service and passengers carried for the new contract period.

C. Resolution regarding application submission. Applicants shall include with the application a resolution by the governing body authorizing the submission of an application, designating a person to represent the applicant in negotiations with the department, and attesting to the availability of local funds to provide the percentage of total cost specified in Minnesota Statutes, section 174.24, subdivision 3.

14 MCAR § 1.4040 Determination of financial assistance; expense categories.

A. Scope. In determining the total operating costs of a public transit system, upon which financial assistance is based, 14 MCAR § 1.4042 and the following definitions of expense categories apply and have the meanings given them in this rule.

B. Personnel services. The "personnel services" expense category includes:

1. administrative, management, and supervisory services which are the amount paid to employees of the transit system who are classified as managers, supervisors, coordinators, or administrators and for which the amounts claimed by employees not working solely for the transit system must be supported by detailed time sheets;
2. operators' wages which are the total amount paid to employees of the transit system who are classified as vehicle operators;
3. maintenance and repair wages which are the labor charges incurred in the performance of maintenance and repair of vehicles and other property required for the operation of the transit system, including only wages of maintenance personnel employed by the transit system;
4. other direct wages which are the amount paid to employees of the transit system who are not classified as operators, maintenance, or administrative personnel, such as dispatchers, bookkeepers, clerical personnel, janitors, and security personnel;
5. indirect labor charges which are the amount to be allocated to the transit contract for labor which is not traceable to a specific transit activity but which benefits the transit operation and must be based on a cost allocation plan approved by the Minnesota Department of Transportation; and
6. fringe benefits which are the cost of providing fringe benefits for active and retired employees of the transit system, including pension benefits, vacation and sick leave benefits, social security taxes, workers' compensation insurance, unemployment insurance, life insurance, and first party medical coverage and which may be allocated indirectly based on a cost allocation plan approved by the Minnesota Department of Transportation.

C. Administrative charges. The "administrative charges" expense category includes:

1. management fees which are the amount paid for professional services provided by a management service company engaged contractually to provide operating management to the transit system;
2. tariffs and traffic expenses which are any necessary tariff filing fees and costs for the procurement of tickets, tokens, transfers, etc.;
3. advertising, marketing, and promotional charges including the necessary cost of advertising and promoting the transit system;
4. legal, auditing, and other professional fees including attorney fees and expenses, court costs, witness fees, and fees for accounting and auditing services rendered by individuals or firms other than employees of the transit system for the purpose of maintaining continuing operations of the transit system, such as accident claims, defending workers' compensation claims, or other items directly related to the management plan and approved by the Minnesota Department of Transportation project manager and other professional fees including fees paid for planning, engineering, or other consulting services necessary to the continuing operation of the transit system;
5. security costs which are the costs necessary to provide armored car services and patrol services for vehicles, stations, yards, and buildings to detect and prevent criminal activity, fires, unsafe conditions, etc., when the patrolling is performed by an outside security agency and not by transit system employees;
6. office supplies expense which is the cost of office supplies and materials and printing and photocopying charges, which are solely attributable to and necessary for the operation of the transit system;
7. lease and rental costs of administrative facilities including leases and rentals of such items as land, buildings, office equipment, and furnishings, that are used for performing the general administrative functions of the transit system;
8. utilities expense which is the cost of utilities such as gas, electricity, water, telephone services, and trash collection;
9. other direct administrative charges including other administrative charges necessary for the continuing operation of the transit system, such as mileage reimbursement for transit support vehicles, approved conference fees, employee travel expenses, driver's training, approved membership fees for transit associations if the cost of membership is reasonably related to the value of the services or benefits received, and subscriptions to transit publications; and
10. indirect administrative charges which are the amount allocated to the transit contract for administrative services not

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

traceable to a specific transit activity but which benefit the transit operation and which must be based on a cost allocation plan approved by the Minnesota Department of Transportation.

D. Vehicle charges. The "vehicle charges" expense category includes:

1. fuel and lubricants expense including costs of gasoline, diesel fuel, antifreeze, propane, lubricating oil, transmission fluid, and grease used by revenue and service vehicles;
2. maintenance and repair material expense including costs of parts, materials, and supplies used in the maintenance and repair of revenue and service equipment;
3. contract service maintenance labor expense which is the cost of labor for maintenance and repair service provided by persons other than transit system employees;
4. tire expense which is the cost of tires and tubes used on revenue and service equipment including the cost of recapping or regrooving and the rental costs for tires and tubes; and
5. other vehicle charges including the cost of first aid equipment, fire extinguishers, and other emergency equipment required for vehicles, and the cost of noncapitalized vehicle improvements which do not remake a vehicle or appreciably extend its useful life and which have received approval from the Minnesota Department of Transportation.

E. Operations charges. The "operations charges" expense category includes:

1. purchase of service which is the cost of having a subcontractor operate the project service, which cost established:
 - a. through competitive bidding procedures, except for those recipients covered under Minnesota Statutes, chapter 221;
 - b. through a negotiated contract with the prime contractor in bid situations when only one bid is received; or
 - c. through a negotiated subcontract in a nonbid situation;
2. depreciation which is the amount of depreciation or use allowance on depreciable items such as structures, revenue equipment, service vehicles and equipment, and office furniture and equipment and is the amount allowed based on a company's existing depreciation schedule or, if a schedule does not already exist, a depreciation schedule submitted to and approved by the Minnesota Department of Transportation, but which may not be charged for items purchased, totally or in part, with state or federal funds;
3. mileage reimbursement for passenger service including the cost of volunteer driver reimbursement for projects incorporating this type of service, as well as mileage reimbursement for transit personnel using private vehicles for emergency replacement passenger transport in the event of mechanical breakdown of transit vehicles;
4. repair and maintenance of other property including material costs associated with the upkeep and repair of buildings and stations, grounds, nonrevenue equipment owned or leased by the transit company, and miscellaneous expenses such as small tool replacement, and supplies used for cleaning and for general shop and garage purposes;
5. leases and rentals including leases and rentals of garages, depots, passenger vehicles, service vehicles, passenger stations, etc., used in the operation of the transit system, with allowability based on the reasonableness of rates and the presence of evidence that the lease will not give rise to material equity in the property; and
6. other operations charges including the cost of such things as the purchase or rental and cleaning of uniforms, street tolls, sanding and snowplow operations, passenger amenities, and station agents and which may be allocated indirectly based on a cost allocation plan approved by the department.

F. Insurance charges. The "insurance charges" expense category includes:

1. public liability and property damage insurance expense on vehicles including premiums paid to insure the transit system against loss through damage to its own property and to indemnify the transit system and all financial and operational participants against loss from liability for its acts which cause damage to the person or property of others; and
2. public liability and property damage insurance charges other than on vehicles, including excess liability insurance, baggage and express insurance, and fire and theft insurance.

G. Taxes and fees. The "taxes and fees" expense category includes:

1. vehicle registration and permit fees on vehicles;
2. federal fuel and lubricant taxes and excise taxes on tires;
3. state fuel and lubricant taxes; and
4. other taxes and fees including applicable real estate and property taxes.

14 MCAR § 1.4042 Determination of financial assistance; disallowed expenses.

A. Scope. In determining the total operating costs of a public transit system, upon which financial assistance is based, 14 MCAR § 1.4040 and the following definitions of disallowed expenses apply and have the meanings given them in this rule.

B. General purpose equipment. Expenditures for general purpose equipment are unallowable as operating costs except with the prior approval of the department. "General purpose equipment" means equipment that is usable for other than transit contract purposes, such as office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, and automatic data processing equipment.

C. Interest and other financial costs. Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection with these costs are unallowable.

D. Fines and penalties. Costs resulting from violations of, or failure to comply with federal, state, or local laws and regulations are unallowable.

E. Contingencies. Contributions to a contingency reserve or any similar provision for unseen events are unallowable.

F. Bad debts. Any losses arising from uncollectible accounts, other claims, and related costs are unallowable.

G. Donations and entertainment expense. Contributions and donations are unallowable as are any entertainment expenses.

14 MCAR § 1.4043 Determination of financial assistance; fee for service.

Operators for profit of public transit service are eligible for a fee for service. The profit or fee must be established as a dollar amount over and above costs of operation. The fee will be arrived at through noncompetitive negotiations and must represent a fair and reasonable price. Factors to be considered in determining the fee are degree of risk assumed by the contractor, the extent of the contractor's investment, and the contractor's past and present performance.

14 MCAR § 1.4044 Distribution of financial assistance; revenue categories.

A. Scope. In determining the local sources of funds which may comprise the fixed percentage of total operating costs to be paid by a recipient in accordance with the distribution classifications specified in Minnesota Statutes, sections 174.24, subdivision 3, the following definitions of revenue categories apply and have the meanings given them in this rule.

B. Passenger fare. "Passenger fare" means revenue earned from transporting passengers on the public transit system, including a cash fare, a donation received instead of a set fare, and an advance fare received from the sale of a coupon, token, or pass.

C. Contract revenue. "Contract revenue" means revenue received from a contract with a beneficiary of a specific transit service, including an amount paid by an organization for a special route guarantee and revenue earned for a ride given in regular transit service but paid for by some organization for the benefit of the rider.

D. School bus revenue. "School bus revenue" means revenue earned from service provided under a contract with a school district, including an amount paid for transporting school children on regularly scheduled route service, for operating a bus exclusively to carry school children, and an amount paid by a college or university for operating a bus on or between campuses.

E. Charter revenue. "Charter revenue" includes reimbursement for charter service received in association with publicly funded transit service, providing that charter service rates are developed so that cost recovery equals or exceeds the full cost of providing the charter service.

F. Auxiliary revenue. "Auxiliary revenue" means revenue earned from an activity closely associated with the transit operation, including revenue received from an advertising service, delivery, a lease, and station and vehicle concessions.

G. Other financial assistance. "Other financial assistance" includes revenue earned from an activity not associated with the provision of the recipient's transit service but which is applied to help cover the system's costs, including a federal cash grant, senior citizen fare assistance, fuel and lubricant tax refund, insurance settlement, investment income, and any general donation.

14 MCAR § 1.4045 Distribution classifications.

Distribution of funds must be made in accordance with the recipient's classification as specified in Minnesota Statutes, section 174.24, subdivision 3. Exceptions to the distribution classifications are the Twin Cities Metropolitan Transit Commission based on the definition of urbanized area found in Minnesota Statutes, section 174.22, subdivision 10, private

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

operators of regular route transit service in the metropolitan transit taxing district based on the statutory commitment to pay private operators up to 100 percent of the operating deficit, and the project for coordination of special transportation service in the metropolitan area based on the definition of elderly and handicapped service found in Minnesota Statutes, section 174.22, subdivision 13.

14 MCAR § 1.4050 Financial assistance contract.

A. Content. The financial assistance contract must be a cost reimbursement contract and may be a cost contract, a cost-plus-a-fixed-fee contract, or a cost-plus-incentive-fee contract. The contract must specify the maximum amount of financial assistance to be awarded to the eligible recipient by the department and state the terms and conditions of assistance. For recipients receiving payment under the method described in Minnesota Statutes, section 174.24, subdivision 5, the contract is effective for no more than one year. The final application must be incorporated into the contract as a legal part of the contract document. A resolution by the governing body which designates a person or persons to execute the contract on behalf of the recipient and to represent the recipient during the contract term must be included with the contract.

B. Disbursement schedule. Payments to recipients under contract must be made in accordance with Minnesota Statutes, section 174.24, subdivision 5.

C. Penalties. If a recipient fails to comply with the terms and conditions of the contract, the department shall terminate the financial assistance contract.

14 MCAR § 1.4055 Use of financial assistance.

A. Record keeping. An eligible recipient and any subcontractor shall maintain their financial records in accordance with generally accepted accounting principles. The records must permit audit verification of transit cost allocations claimed during the contract period. The eligible recipient and any subcontractor also shall keep records on miles and hours of service and passengers carried. Records must be kept available for a period of three years from the date of final payment.

B. Reporting. At the end of each month of operation, a recipient shall provide the department with a report summarizing cost allocations and operating statistics for the period. Reports must be completed on forms provided by the department and must be submitted no later than 20 working days after the end of the preceding month.

C. Audits. The financial records of the eligible recipient must be audited. They may be audited by the department or the department may accept all or part of the audit of an independent auditor instead of a departmental audit if the audit meets department standards. The financial records of a subcontractor may be audited at the department's discretion. Audits at the end of a contract period must establish approved total operating costs. New recipients are subject to a pre-award audit before contract execution and fund encumbrance. As provided by Minnesota Statutes, section 16.095, the records, books, documents, and accounting practices of the recipient and of any subcontractor relating to the contract are subject to audit and examination by the department and the legislative auditor during working hours.

D. Project monitoring. The department shall use the management plan required under 14 MCAR § 1.4037 A. as a basis for monitoring and evaluating the performance of the public transit system during the contract period. Public transit policy decisions made by the recipient and actions taken during the contract period must conform with the management plan. A proposed deviation from the management plan must be reported to the department and approval secured in writing before implementation. Failure to secure approval jeopardizes continued financial assistance.

14 MCAR § 1.4060 Uniform performance standards for private operators in metropolitan transit taxing district.

A. Uniform standards. Performance standards developed by the private operators of regular route transit service must be specified in the management plan required under 14 MCAR § 1.4037 A. and approved by the department in the process of negotiation. Standards must emphasize maintaining the quality of the system, maintaining the efficiency of the system, and maintaining service levels to the extent necessary to maximize ridership.

B. Funding procedures for private operators. Private operators are subject to the application procedures described in 14 MCAR §§ 1.4035 and 1.4037. They also are subject to the contract described in 14 MCAR § 1.4050 and the provisions in 14 MCAR § 1.4055. By the provisions of Minnesota Statutes, section 174.24, subdivision 3, payments to private operators may equal up to 100 percent of the operating deficit. The operating deficit is recognized as the total operating cost defined in 14 MCAR § 1.4031 S., minus revenue received. Payments to private operators must be made monthly upon receipt of a request for funds submitted on forms provided by the department. An advance of funds not to exceed ten percent of the maximum contract award may be made in the first month of the contract upon justification from the recipient. This advance must then be deducted from the last two monthly requests for funds.

14 MCAR § 1.4065 Public transit capital grant assistance program.

A. Eligibility. To be eligible for capital grant assistance, an applicant must be a political subdivision, public transit authority,

ADOPTED RULES

or other public or private nonprofit agency that operates or provides financial assistance to a public transit system, except that a public transit authority or commission that operates a public transit system in a city of the first class is not eligible.

B. Criteria. Requests for capital assistance from eligible recipients must be evaluated for the impact of the capital need addressed on the provision of transit service, for the impact on accessibility to the handicapped, and on the availability of local share money.

C. Standards. Capital assistance requests must be considered for the purchase of new transit vehicles or for the refurbishing of existing vehicles. Refurbishing expenses are recognized as those costs that remake a vehicle to a renewed level of mechanical and structural soundness and which appreciably extend its useful life.

D. Procedures. The department shall conduct an annual survey of the capital needs of financial assistance grant recipients. The survey must ask respondents to relate capital needs to the criteria established. The resulting capital grant requests must be reviewed by an internal committee of departmental representatives. The committee shall evaluate requests based on the criteria and establish priority rankings.

E. Capital grant assistance contract. The capital assistance contract between the department and the eligible recipient must specify the maximum amount of financial assistance to be awarded to the recipient and must state the terms and conditions of assistance. In accordance with Minnesota Statutes, section 174.245, capital grants may not exceed two-thirds of the total cost of the purchase price or refurbishing expense. A resolution by the recipient's governing body pertaining to the capital grant request is required.

Repealer. Rules 14 MCAR §§ 1.4025; 1.4026; 1.4027; 1.4028; 1.4029; and 1.4030, are repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Minnesota Housing Finance Agency

Adopted Temporary Rules Governing Cooperative/Rental Multi-Family Housing Innovative Loans

Notice is hereby given that the Minnesota Housing Finance Agency has adopted the following temporary rules for the purpose of establishing procedures for application for participation in and setting income limits for Cooperative/Rental Multi-Family Housing Innovative Loans, pursuant to subdivision 18a of chapter 462A.05 and chapter 462A.27 of Minnesota Statutes.

In accordance with chapter 462A.27 of Minnesota Statutes, these temporary rules were effective commencing August 25,

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

1983, the date of their adoption by the Minnesota Housing Finance Agency, and will continue in effect for 360 days or until permanent rules are adopted, whichever occurs first.

September 12, 1983

James J. Solem
Executive Director

Rules as Adopted (all new material)

12 MCAR § 3.122 Definitions.

- A. Scope. For the purposes of 12 MCAR §§ 3.123, 3.124, 3.125 and 3.126, the following terms have the meanings given them.
- B. Applicant. "Applicant" means one or more persons or entities which apply for a cooperative/rental multi-family housing innovative loan.
- C. Borrower. "Borrower" means an applicant which is granted a cooperative/rental multi-family housing innovative loan, and which is the maker of a note in evidence of such loan.
- D. Cooperative/rental multi-family housing innovative loan. "Cooperative/rental multi-family housing innovative loan" means a loan to be made to a borrower pursuant to the authority granted in Minnesota Statutes section 462A.05, subdivision 18a, and the proceeds of which are to be from the monies in the fund established by Minnesota Statutes section 462A.21, subdivision 9a.
- E. Democratic Resident Association. "Democratic Resident Association" means an association, incorporated or unincorporated, whose membership is limited to and open to residents of a project, and where each member of such association has an equal vote in the affairs of the association.
- F. Project. "Project" means a multi-family housing development for which the cooperative/rental multi-family housing innovative loan is requested.

12 MCAR § 3.123 Eligibility requirements.

- A. For Applicants. To be eligible for selection for a cooperative/rental multi-family housing innovative loan, each applicant must satisfy the following requirements:
1. the applicant must be either a cooperative housing corporation, or a limited dividend entity;
 2. the applicant must demonstrate the ability to organize and complete the project;
 3. the applicant must demonstrate that it has, or will have, the ability to repay the cooperative/rental multi-family housing innovative loan, and to obtain other financing, if needed, at the expiration of such loan;
 4. the applicant must have developed a training and education program for the residents of the Project, and must include a copy of such program with its application for a loan. Such training and education program must include, at a minimum, (1) details of how the resident association will be organized and operated, (2) what the legal rights of the residents and the association are, and how the residents will be advised of such rights, (3) what the financial interests and obligations of the individual residents and the association are, and how the residents will be advised of such obligations, and (4) how the project will be managed and maintained.
- B. For Projects. To be eligible for selection for a cooperative/rental multi-family housing innovative loan, each project must satisfy the following requirements:
1. the project must be located in the State of Minnesota;
 2. the project must be in the form of a cooperative or rental multi-family housing development, which is either owned and operated on a nonprofit cooperative basis by the residents, or owned by a limited dividend entity and operated by a residents association;
 3. the operation and management of the project must be substantially under the control of a democratic residents association, which shall include the filling of housing units vacancies.

12 MCAR § 3.124 Other requirements.

- A. Unavailability of financing. At the time of application for a cooperative/rental multi-family housing innovative loan, conventional financing for the purpose for which such loan is requested must not be available from private lenders upon equivalent terms and conditions.
- B. Income Limits. Occupancy in a project as a resident shall be restricted to persons and families of low and moderate income which, for purposes of 12 MCAR §§ 3.122, 3.123, 3.124, 3.125 and 3.126, is defined as those persons and families whose

adjusted income does not exceed the greater of \$16,000 or 550 percent of the gross rental or monthly carrying charge for the dwelling unit which they are to occupy; provided, however, that the gross rentals or monthly carrying charge shall not exceed 120 percent of the fair market rents for the geographical area in which such project is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

12 MCAR § 3.125 Selection criteria for Cooperative/Rental Multi-Family Housing Innovative Loans. In determining whether or not to approve applications for cooperative/rental multi-family housing innovative loans, the Agency shall examine the following facts and make their determination thereon:

A. The extent to which the project will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States Department of Housing and Urban Development.

B. The extent to which the project will provide long term affordability to persons and families of low and moderate income.

C. The extent to which the resident association has control over the operation and management of the housing and over the filling of housing vacancies.

D. The geographic location of the proposed project within the State of Minnesota, taking into account other projects theretofore approved for cooperative/rental multi-family housing innovative loans.

E. The period of time required to complete the project.

F. The amount and term of the requested cooperative/rental multi-family housing innovative loan, as compared to the total resources of the Agency available for such loans.

G. Whether the applicable Regional Development Commission has determined that the project is consistent with regional plans and policies.

12 MCAR § 3.126 Project feasibility loans. The Agency may consider applications for a cooperative/rental multi-family housing loan the funds from which are to be used to determine the feasibility of a project, and such applications need not comply with the requirements contained in 12 MCAR § 3.123 A.3.

Department of Welfare Bureau of Support Services

Adopted Temporary Rules Governing the Determination of Welfare Per Diem Rates for Nursing Homes under the Title XIX Program

The rules proposed and published at *State Register*, Volume 8, Number 1, pages 6-27, July 4, 1983 (8 S.R. 6) are adopted with the following modifications:

Temporary Rules as Adopted

12 MCAR § 2.05001 [Temporary] Authority and applicability.

A. Authority.

4. Minnesota Statutes, section 256B.502, authorizes the commissioner to adopt temporary and permanent rules to implement the provisions of Laws of Minnesota 1983, chapter 199, concerning the establishment of nursing home rates.

B. Applicability. Rules 12 MCAR §§ 2.05001-2.05016 [Temporary] establish procedures for determining the per diem welfare rates for all nursing homes participating in the medical assistance program ~~and for licensed boarding care facilities participating in the Minnesota supplemental aid program.~~

12 MCAR § 2.05002 [Temporary] Definitions.

B. Actual allowable historical operating cost per diem. "Actual allowable historical operating cost per diem" means the per diem payment for ~~actual~~ operating costs allowed by the commissioner for the most recent reporting year.

E. Applicable credit. "Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, ~~interest income, income from incidental services, sale of equipment or salvage~~ the sale of goods or services

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

not covered by the per diem rate, adjustment for ~~erroneous charges~~ overcharges, insurance claims settlement, or any other adjustment reducing cost of the nursing home.

~~F.~~ F. Betterment. "Betterment" means the renovation or replacement of part of an existing asset to improve its function or to exceed its useful life.

~~F.~~ F. ~~Attached fixtures.~~ "~~Attached fixtures~~" G. Building service equipment. "Building service equipment" means ~~building service equipment or other~~ equipment affixed to the building and not easily subject to transfer such as wiring, electrical fixtures, plumbing, elevators, heating systems, air conditioning systems, and built-in refrigerators or freezers.

~~G.~~ H. Care levels. "Care levels" means the classifications of nursing service provided by a nursing home. They are:

1. Skilled nursing facility (SNF), a skilled nursing facility as defined by applicable federal regulations and licensed as a nursing home by the Department of Health;

2. Intermediate care facility I (ICF I), an intermediate care facility as defined by applicable federal regulations and licensed as a nursing home by the Department of Health;

3. Intermediate care facility II (ICF II), an intermediate care facility as defined by federal regulations and ~~as~~ licensed as a boarding care facility by the Department of Health;

~~4.~~ Licensed boarding care facilities participating in the Minnesota supplemental aid program.

~~H.~~ I. Commissioner. "Commissioner" means commissioner of public welfare.

~~I.~~ J. Cost category. "Cost category" means any one of the cost groupings set forth in 12 MCAR § 2.05006 [Temporary].

~~J.~~ K. Cost groups. "Cost groups" means the groupings of cost categories used for rate setting purposes. The groups are: operating costs, property-related costs, and costs for real estate taxes and special assessments.

~~K.~~ L. Cost report. "Cost report" means the document specified by the commissioner on which the nursing home provides the statistical and financial information required by the commissioner for rate determination.

~~L.~~ M. Desk audit. "Desk audit" means the determination of the payment rate based on the commissioner's review and analysis of required reports, supporting documentation, and work sheets submitted by the nursing home.

~~M.~~ N. Department. "Department" means the Department of Public Welfare.

~~N.~~ O. Depreciable equipment. "Depreciable equipment" means equipment which must be capitalized under 12 MCAR § 2.05003, F.1. [Temporary].

~~O.~~ P. Direct cost. "Direct cost" means a cost that can be identified with a specific cost category.

~~P.~~ Q. Extraordinary repair. "Extraordinary repair" means a ~~major~~ repair which is ~~costly in relation to the value of the asset,~~ should increase ~~increases~~ the use value of the asset, or ~~prolong~~ prolongs its useful life.

~~Q.~~ R. Facility. "Facility" means the building in which a nursing home is located and all ~~attached fixtures~~ other depreciable assets of the nursing home. Facility does not include the land, land improvements, or any supplies or equipment which are not ~~attached fixtures~~ depreciable.

~~R.~~ S. Field audit. "Field audit" means the on-site examination, verification, and review of the financial records, statistical records, and related supporting documentation of the nursing home and any related organization.

~~S.~~ T. Final rate. "Final rate" means the rate established after any adjustment by the commissioner including, but not limited to, adjustments resulting from the cost report reviews, field audits, and ~~resolution~~ resolutions of appeals.

~~T.~~ U. Fringe benefits. "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances.

~~U.~~ V. General and administrative costs. "General and administrative costs" means costs for administering the nursing home as specified in 12 MCAR § 2.05006 G. [Temporary].

~~V.~~ W. Historical operating costs. "Historical operating costs" means the allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the application of appropriate limitations such as those on general and administrative costs.

~~W.~~ X. Hospital attached facility. "Hospital attached facility" means a facility which is under common ownership and operation with a licensed hospital and shares with the hospital services such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services.

~~X.~~ Y. Indirect cost. "Indirect cost" means a cost that is incurred for a common purpose or joint purpose of benefiting more than one cost category and not readily assignable to the cost category benefited.

~~Y.~~ Z. Interagency board for quality assurance. "Interagency board for quality assurance" means the board established by Minnesota Statutes, section 144A.31.

~~Z.~~ AA. Land improvement. "Land improvement" means an improvement to the land on which the nursing home is located such as paving, tunnels, underpasses, on-site sewers and water lines, parking lots, shrubbery, fences, walls, curbs, and sidewalks, if replacement is the responsibility of the nursing home.

~~AA.~~ BB. Leasehold improvement. "Leasehold improvement" means an improvement on leased property that reverts to the owner of the property upon termination of the lease.

~~BB.~~ CC. Lesser care resident day. "Lesser care resident day" means a day on which services are provided to a resident who requires a lower level of care than the care level for which the nursing home is certified.

~~CC.~~ Major betterment. "~~Major betterment~~" means ~~the renovation or replacement of part of an existing asset to increase the asset's efficiency, value, or useful life.~~

FF. Necessary service. "Necessary service" means a function pertinent to the nursing home's operation that, if not performed by the individual, would have required the nursing home to employ or assign another person to perform it.

LL. Payroll taxes. "Payroll taxes" means the employer's share of social security withholding taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes or costs.

NN. Property-related costs. "Property-related costs" means all directly identifiable costs, other than personnel costs, associated with the financing and ownership of the nursing home's real estate and depreciable equipment, including depreciation, interest, rental or lease payments, and earning or investment allowance. For the rate years beginning July 1, 1983 and July 1, 1984, property-related costs shall also include working capital interest.

PP. Real estate. "Real estate" means land, land improvements, and facilities, ~~and attached fixtures~~ used directly for resident care.

QQ. Real estate taxes and special assessments. "Real estate taxes and special assessments" means ~~all actual special assessments paid and~~ the real estate tax liability shown on the annual property tax statement of the nursing home for the calendar year during which the reporting year ends rate year begins and the actual special assessments and related interest paid during the reporting year. The term does not include personnel costs, ~~interest,~~ or fees for late payment.

RR. Related organization. "Related organization" means ~~an organization which furnishes services, facilities, or supplies to a nursing home and which:~~

~~1. is associated with or affiliated with the nursing home; or~~

~~2. has control of or is controlled by the nursing home. "Control" means the situation in which an individual or an organization has the power, directly or indirectly, to influence or direct significantly the actions or policies of an organization or institution; or~~

~~3. is under common ownership with the nursing home. "Common ownership" means the situation in which an individual or an organization owns equity in the nursing home and in the organization serving the nursing home. a person which furnishes goods or services to a nursing home and which is an affiliate of a nursing home, a close relative of an affiliate of a nursing home, or an affiliate of a close relative of an affiliate of a nursing home. As used in this provision:~~

~~1. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.~~

~~2. A "person" is an individual, a corporation, a partnership, an association, a trust, and unincorporated organization, or a government or political subdivision.~~

~~3. A "close relative of an affiliate of a nursing home" is an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate of a nursing home is no more remote than first cousin.~~

~~4. "Control" including the terms "controlling," "controlled by," and "under common control with" is the possession,~~

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

ADOPTED RULES

direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract or otherwise.

VV. Useful life. "Useful life" means the length of time an asset is expected to provide economic service before needing replacement as determined pursuant to 12 MCAR § 2.049 in effect on May 1, 1983.

WW. Welfare day. "Welfare day" means a resident day for which reimbursement is billed to the medical assistance program—~~or Minnesota supplemental aid program.~~

12 MCAR § 2.05003 [Temporary] Cost principles.

Nursing homes must use the cost principles in A.-F. to report costs. The commissioner shall use these cost principles to determine allowable costs.

A. General and administrative costs. General and administrative costs must not be allocated as a direct or indirect cost to any other cost categories except as provided in 12 MCAR § 2.05007 A.3. [Temporary].

B. Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing home to the extent that the cost to which the credits applied was claimed as a nursing home cost.

C. Adequate documentation.

1. General principles. Adequate documentation must:

- a. be maintained in orderly, well-organized files;
- b. not include documentation of two or more related nursing homes in one set of files;
- c. include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing homes; and
- d. include contracts, agreements, amortization schedules, mortgages, ~~and~~ other debt instruments, and all other ~~relevant~~ documents necessary to explain nursing home's costs or revenues.

3. Documentation of mileage; motor vehicle log. Except for utility vehicles used exclusively for nursing home business the nursing home must maintain a motor vehicle log that shows personal; and nursing home; ~~and resident~~ usage. Mileage paid for the use of a private vehicle must be documented.

D. Other cost principles. For rate setting purposes, a cost must satisfy the following criteria:

1. The cost is recognized as ordinary, necessary, and related to resident care.
2. The cost is what a prudent and cost conscious business person would pay for the specific ~~goods~~ good or ~~services~~ service in the open market in an arm's length transaction.
3. The cost is for goods or services actually provided to the nursing home.
4. The cost effects of transactions that ~~are conceived for the purpose~~ have the effect of circumventing these rules are not allowable under the principle that the substance of the transaction shall prevail over form.
5. Costs that ~~relate~~ are incurred due to management inefficiency, unnecessary care or facilities, ~~noncompetitive~~ agreements not to compete, ~~and~~ or activities not commonly accepted in the nursing home care field are not allowable.

E. Compensation for personal services. Compensation for personal services includes all the remuneration paid currently, accrued or deferred, for services rendered by the nursing home's owners or employees. Only compensation costs for the current reporting period are allowable.

1. Compensation includes:

- a. salaries, wages, bonuses, vacations, sick leave, and fringe benefits paid for managerial, administrative, professional, and other services;
- b. amounts paid by the nursing home for the personal benefit of the owners or employees;
- c. the costs of assets and services which the owner or employee receives from the home;
- d. deferred compensation and individual retirement accounts (IRA's);
- e. the costs of supplies, equipment, and or services for personal use ~~and~~ or any other in-kind ~~benefit~~ benefits received by the owners or employees; and

f. payment to nonpaid workers, and to organizations of nonpaid workers, that have arrangements with the nursing home for the performance of services by the nonpaid workers.

2. The nursing home must have a written policy for payment of compensation for personal services. The policy must:

a. relate the individual's compensation to the performance of specified duties and to the number of hours worked by the individual; and

b. result in consistent treatment of employees working in similar situations within the nursing home; ~~and~~

~~e. relate the compensation paid within the nursing home to that paid by comparable nursing homes for comparable services.~~

4. Except for accrued vacation and sick leave, compensation must be actually paid, whether by cash or negotiable instrument, within 75 days after the close of the reporting period. If payment is not made within the allowable period, the unpaid compensation shall be disallowed in that reporting year and shall not be an allowable cost in future reporting years.

F. Capitalization.

1. Expenditures incurred on or after July 1, 1983, for land improvements, facilities, equipment, extraordinary repairs, additions, ~~major~~ betterments, and leasehold improvements must be capitalized and depreciated if the item normally has a useful life of more than one year and a unit ~~value~~ cost of \$150 \$500 or more. Expenditures incurred on or before June 30, 1983, shall be capitalized and depreciated in accordance with 12 MCAR § 2.049 in effect on May 1, 1983.

The purchase or purchases of ~~the same~~ equipment, other than minor equipment, during a reporting year which have a unit cost of less than ~~\$150~~ \$500 but have an aggregate cost in excess of ~~\$1,000~~ \$2,500 must be capitalized and depreciated.

12 MCAR § 2.05004 [Temporary] Related organization costs.

A. Charges from related organizations. Costs applicable to services, facilities, and supplies directly or indirectly furnished to the nursing home by any related organization are includable in the allowable cost of the nursing home at the cost to the related organization if these costs do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

B. Exception to limitation on related organization costs. If the related organization in the normal course of business sells services, facilities, or supplies to ~~outsiders~~ nonrelated organization's, the cost to the nursing home shall be the ~~outsider's~~ nonrelated organization's price provided that sales to outsiders nonrelated organizations constitute at least ~~75~~ 50 percent of total annual sales.

C. Disposal of assets of related organizations. Subject to the provisions of 12 MCAR §§ 2.05001-2.05016 [Temporary], the cost of ownership of an asset which is used by the nursing home may be included in the allowable cost of the nursing home even though it is owned by a related organization. When the asset is sold or otherwise disposed of by the related organization and the depreciation is included in the general and administrative category, any gain realized by the organization must be offset against the nursing home's general and administrative cost category. Where a nursing home claims depreciation on an asset owned by a related organization, and ~~the nursing home terminates participation in the medical assistance or Minnesota supplemental aid program,~~ or the asset is sold or otherwise disposed of by the related organization, the allowable depreciation is subject to the recapture provisions of 12 MCAR § 2.05011 G. [Temporary].

12 MCAR § 2.05006 [Temporary] Reporting of costs by cost category.

All costs for routine services must be reported in cost categories A.-J.

A. Dietary services. The costs listed in 1.-3. are included in the dietary services cost category:

2. the ~~salary~~ personnel costs of the supervisor, dieticians, chefs, cooks, dishwashers, and other employees assigned to the kitchen and dining room including the salaries or fees of dietary consultants;

3. the costs of training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties.

B. Laundry and linen services. The costs listed in 1. and 2. are included in the laundry and linen services cost category:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

2. the ~~salaries~~ personnel costs of the supervisor, ~~seamstresses~~ sewers and menders, ironers, and other laundry employees.

C. Housekeeping services. The costs listed in 1. and 2. are included in the housekeeping services cost category:

2. the ~~salaries~~ personnel costs of the supervisor, housekeepers, and other cleaning personnel.

D. Plant operation and maintenance services. The costs listed in 1. and 2. are included in the plant operations and maintenance cost category:

1. direct costs for maintenance and operation of the building and grounds, including fuel, electricity, water, sewer, supplies and parts to repair and maintain equipment and facilities, minor equipment, and tools; and

2. the ~~salaries~~ personnel costs of the supervisor, engineers, heating-plant employees, independent contractors, and other maintenance personnel.

E. Nursing services. Direct costs associated with nursing services including 1.-24. are included in the nursing services cost category:

~~11. restorative nursing measures to help the resident reach or maintain the resident's best level of functioning including passive range of motion, ambulation, transfer, and activities of daily living, including teaching and follow-up;~~

~~12.~~ care of residents with casts, braces, splints, and other appliances requiring nursing care or supervision;

~~13.~~ 12. administration of oxygen;

~~14.~~ 13. use of nebulizers;

~~15.~~ 14. maintenance care of resident's colostomy, ileostomy, and urostomy;

~~16.~~ arrangements for obtaining medical, dental, and hospital care;

~~17.~~ 15. administration of parenteral medications, including intravenous solutions;

~~18.~~ 16. administration of tube feedings;

~~19.~~ 17. nasopharyngeal aspiration required for maintenance of a clean airway;

~~20.~~ 18. care of suprapubic catheters and urethral catheters;

~~21.~~ 19. care of tracheostomy, gastrostomy, and other tubes in a body;

~~22.~~ 20. all costs of equipment and supplies that are used to complement the services in the nursing services cost category, including:

b. drugs which according to federal law do not require a prescription ~~and insulin which is required by a resident's plan of care;~~

~~23.~~ 21. costs for education or training of nursing service personnel; except for nurses aid training, educational costs are limited to either meeting the requirements of laws or regulations for keeping an employee's salary, status, or position or for maintaining or updating skills needed in performing the employee's present duties; and

~~24.~~ 22. personnel costs of persons performing nursing services including salaries of the director, and assistant director of nursing, supervising nurses, medical records personnel, registered professional nurses, licensed practical nurses, nurses aides, orderlies, attendants, and the salaries or fees of physicians or other professionals performing consulting services on medical care which are not reimbursed separately on a fee for service basis.

F. Other care-related services. The costs listed in 1.-3. are included in the other care-related services cost category:

1. direct costs of other direct care-related services, such as recreational or religious activities, arts and crafts, and social services which are not reimbursed separately on a fee for service basis;

2. the ~~salaries~~ personnel costs of recreational therapists and aides, rehabilitation therapists and aides, chaplains, arts and crafts instructors and aides, social workers and aides, and other care-related personnel including salaries or fees of professionals performing consultation services in these areas which are not reimbursed separately on a fee for service basis; and

3. the costs of training to meet the requirements of laws or regulations for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties.

G. General and administrative services. Direct costs for administering the overall activities of the nursing home are included in the general and administrative cost category. These direct costs include:

3. all motor vehicle operating expenses ~~for vehicles such as vans or utility vehicles;~~

14. training for top management personnel and other than direct resident care related personnel that either meets the

requirements of laws, rules, or regulations to keep an employee's salary, status, or position or to maintain or update skills needed to perform the employee's present duties;

16. subscriptions to periodicals which are directly related to ~~resident care~~ the operation of the nursing home;

17. telephone, television, and radio services provided in areas ~~designed~~ designated for use by the general resident population, such as lounges and recreation rooms;

19. joint commission on accreditation of hospitals survey;

20. advertising; and

~~20-~~ 21. board of director's fees.

H. Payroll taxes and fringe benefits. Only the costs for 1.-8. are included in the payroll taxes and fringe benefits cost category:

2. state and federal unemployment compensation taxes or costs;

6. either a United States Internal Revenue Service-approved ~~approved~~ pension plan or a United States Internal Revenue Service approved profit-sharing plan, but not both;

I. Real estate taxes and special assessments. Real estate ~~tax liability for each proprietary nursing home and actual~~ taxes and special assessments paid for each nursing home are included in the real estate taxes and special assessments cost category.

J. Property-related costs. Depreciation, interest, investment allowance, lease, or rental payments are included in the property-related cost category. For the rate years beginning July 1, 1983 and July 1, 1984, property-related costs shall also include working capital interest.

12 MCAR § 2.05007 [Temporary] Cost allocation procedures.

A. Cost category allocation principles. Cost category allocation principles shall be as provided in 1.-4.

3. In instances in which a person other than top management personnel has multiple duties, the person's salary cost shall be allocated to the cost categories in 12 MCAR § 2.05006 [Temporary] on the basis of time distribution records that show actual time spent on various activities.

In a nursing home of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in records kept by the nursing home. Central, affiliated, or corporate office costs representing services of ~~required~~ required by law or regulation in areas including, but not limited to, dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropriate department, but only if those costs are directly identified by the nursing home.

B. Specific care level cost allocation procedures for multi-care level nursing homes. Specific cost allocation procedures are necessary to determine costs assignable among care levels within a multi-care level nursing home. Costs will be allocated between the levels of skilled care, intermediate care I, intermediate care II, and other care levels as appropriate. Nursing homes must choose one of the allocation methods given in each cost category in 1.-10. The method chosen must result in a reasonable identification of costs by care level. Once an allocation method is chosen, it cannot be changed unless the nursing home demonstrates to the commissioner, based on changed circumstances, that it is impossible or impractical for the nursing home to continue to use the method originally chosen or that the method originally chosen no longer results in a reasonable identification of costs by care level.

3. Housekeeping services cost allocation must be based on:

a. regularly validated time or cost studies;

b. the ratio of square feet of floor space devoted directly to each care level; or

~~b-~~ c. actual resident days.

8. Fringe benefits and payroll tax costs must be allocated on the same basis as general and administrative costs. Effective for rate years beginning July 1, 1984, and after, fringe benefits and payroll tax costs must be allocated in the same proportion as the combined cost of salaries in all other cost categories for each level of care.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

ADOPTED RULES

10. Property-related costs.

a. A nursing home shall allocate property-related costs on the basis of the method of allocation used by the nursing home in the most recent cost report received by December 31, 1982, and audited by March 1, 1983.

d. Notwithstanding the provisions in a.-c., if, in any year the actual resident days in any care level exceed the certified capacity at that care level, the nursing home shall allocate property-related costs based on actual resident days for that reporting year. In subsequent years, the nursing home shall use its previous method of allocation if the certified capacity is no longer exceeded.

12 MCAR § 2.05008 [Temporary] Limitations on costs.

C. Nursing care and attendant limitations.

1. The maximum number of nursing hours per actual resident day for which costs shall be allowed are as follows:

- a. SNF, 2.9 hours;
- b. ICF I, 2.3 hours; and
- c. ICF II, 1 hour.

For the purpose of 12 MCAR §§ 2.05001-2.05016 [Temporary], the computation of nursing hours must not include nursing home may exclude hours for vacation, holidays, sick leave, classroom training, and coffee breaks from the computation of nursing hours. If the actual average nursing hours per actual resident day exceed the limits in a.-c., the limitation to nursing costs must be calculated by multiplying the ratio of the limit to the average actual nursing hours per actual resident day for the year times the actual cost per actual resident day. This limitation must not be applied to nursing homes that qualify for exception under 12 MCAR § 2.05010 C.6., a. or b. [Temporary], or nursing homes mandated by a correction order from the Department of Health to provide additional nursing care.

D. Top management personnel compensation limitations.

2. For determining top management personnel compensation limitations, compensation must not include fringe benefits, vacation, and sick leave if the same benefits are made available to all or substantially all of the nursing home's employees.

4. For the rate year beginning July 1, 1983, the maximum annual top management personnel compensation per nursing home shall be \$35,000. For the rate years beginning on or after July 1, 1984, the maximum annual top management personnel compensation per nursing home shall be \$42,000.

6. Reasonable compensation of an assistant administrator is not subject to the limitations in 1.-5.

12 MCAR § 2.05009 [Temporary] Nonallowable costs.

The costs listed in A.-EE. are now allowable for purposes of setting payment rates but must be identified on the nursing home's cost report. These costs are:

C. assessments made by or the portion of dues charged by associations or professional organizations for litigation except for successful challenges to decisions by agencies of the state of Minnesota, lobbying costs, or contributions to political action committees or campaigns. Where the breakdown of dues charged to a nursing home is not provided, the entire cost shall be disallowed;

F. all activities not related to resident care such as flowers, or gifts, bonuses for employees or owners, employee parties, and business meals;

J. premiums on owner's or board member's life insurance policies, except that premiums on an owner's or board member's life insurance policy shall be allowed if the policy is included in the group policy provided for all employees;

N. training programs to meet the minimum educational requirements of a position except for nurses aides, education that leads to a degree, or education that qualifies the employee for a new trade or profession. This limitation shall not apply to training or education for nurses aides or training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties;

Q. all costs of functions normally reimbursed by charges to residents, employees, or visitors, such as the operating cost, direct and indirect, of a pharmacy, beauty shop, gift shop, coffee shop, apartment, day care center, and functions not related to resident care;

R. operating costs for activities to the extent that such activities are financed by gifts or grants from public or private funds;

U. all identifiable costs of services provided by a licensed medical therapeutic or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

3. allocated cost of any operating or property-related cost for providing these services such as: housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, and supervisory and administrative staff costs.

If any of the expenses in 1.-3. are incurred by the nursing home, these expenses must be reported under nonreimbursable expenses together with any of the income received or anticipated by the nursing home, including any charges by the nursing home to the vendor;

~~W.~~ costs incurred by owners or employees while conducting the business of or performing services for professional organizations or associations;

~~X.~~ legal and related expenses for unsuccessful challenges to decisions by governmental agencies;

~~Y.~~ interest for financing working capitol needs, beginning with the rate year starting July 1, 1984;

~~Z.~~ X. any fringe benefits or payroll taxes associated with disallowed salary costs;

~~AA.~~ Y. costs associated with sales or reorganizations of nursing homes;

~~BB.~~ Z. interest charged by the department on depreciation recapture settlements or rate adjustments;

~~CC.~~ AA. any portion of the total general and administrative cost category which exceeds the limitations in 12 MCAR § 2.05008 B.1.-4. [Temporary];

~~DD.~~ BB. cost incurred for activities directly related to influencing employees with respect to unionization; and

~~EE.~~ CC. all costs determined to be nonallowable in accordance with 12 MCAR §§ 2.05001-2.05016 [Temporary].

12 MCAR § 2.05010 [Temporary] Rate determination for operating costs.

A. Determination of actual resident days. The total number of actual resident days shall be calculated by multiplying the lesser care resident days times the appropriate factor from the following table and subtracting that product from the number of resident days.

Level of Care Provided	Certification	SNF Beds	ICF I Beds
SNF		not applicable	not applicable
ICF I		.15	not applicable
ICF II		.50	.40

For the rate year beginning July 1, 1983, the total number of lesser care resident days which may be adjusted as set forth above must not exceed 15 percent of the total number of resident days. For the rate year beginning July 1, 1984, the total number of lesser care resident days which may be adjusted as set forth above must not exceed ten percent of the total number of resident days. This limitation may shall be waived by the commissioner for up to one year to accommodate a transition period during which the nursing home obtains the proper care level certification if the nursing home demonstrates in writing that it is taking appropriate action to change care level certification as necessary to accommodate the lesser care residents. The waiver shall extend until the certification is changed but shall not exceed one year.

B. Establishment of actual allowable historical operating costs per diem.

1. For the rate year beginning July 1, 1983, and ending on June 30, 1984, the actual allowable historical operating costs shall be determined ~~from~~ as reported in the most recent cost report received by December 31, 1982, and audited by March 1, 1983, and shall be updated to June 30, 1983, by using a nine percent annual rate of increase after applying in general and administrative cost limitation in 12 MCAR § 2.05008 C. [Temporary].

C. Establishment of 60th percentile of actual allowable historical operating costs per diem.

4. The number of actual allowable historical operating cost per diems in the group shall be increased by one and shall be multiplied by 0.6 to establish the 60th percentile rank.

D. Establishment of the operating cost payment rate.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

3. A nursing home or part of a nursing home falling within the exclusions of C.6.a. or b. shall receive as its operating cost payment rate:

a. for the rate year beginning July 1, 1983, and ending June 30, 1984, its actual allowable historical operating cost per diem increased by six percent; and

b. for the rate year beginning July 1, 1984, and ending June 30, 1985, its actual allowable historical operating cost per diem, increased at an annual rate of six percent.

12 MCAR § 2.05011 [Temporary] Rate determination for property-related costs.

A. Capacity days. The number of capacity days shall be determined by multiplying the number of the nursing home's licensed beds by the number of days in the nursing home's reporting period. Capacity days may be adjusted under one or more of the conditions given in 1.-4.

2. For nursing homes applying for a certificate of need after August 15, 1972, and choosing to assign a greater proportion of costs to single bed rooms, the number of capacity days shall be increased by multiplying the number of licensed single bed rooms by 1.5.

3. ~~Usable or operable bed capacity shall be used for purposes of the calculations required by 1. and 2. if the nursing home justifies in writing, to the satisfaction of the commissioner, that licensed beds is an inappropriate measure of capacity. The usable or operable bed capacity adjustment must not be in effect for more than one reporting year and must not be recognized after July 1, 1985.~~ For purposes of the calculations required by 1. and 2., the commissioner shall allow the nursing home to use the number of beds in operation rather than licensed beds if the nursing home demonstrates in writing that:

a. the space is not being used as a resident room, the space is being used for another purpose related to the operation of the nursing home, and that the use of the space for a purpose other than a resident room is necessary for the operation of the nursing home; or

b. the facility is required by a governmental agency to take the bed or beds out of operation.

B. Nursing homes constructed prior to July 1, 1983. The property-related cost base for a nursing home constructed prior to July 1, 1983, shall be determined by 1.-4.

1. For the rate years beginning on July 1, 1983, and July 1, 1984, the property-related costs include the allowable depreciation, interest, investment allowance, and lease or rental payment expenses at the dollar level recognized in the most recent cost report received by the commissioner by December 31, 1982, and audited by March 1, 1983. These costs must be subsequently adjusted to reflect the costs recognized in the final rate for that cost report, adjusted for rate limitations in effect May 1, 1983.

2. Property-related costs as determined in 1. shall be reduced to the extent that costs included in property-related costs in the most recent cost report received by the commissioner by December 31, 1982, and audited by March 1, 1983, are included in a different cost category under 12 MCAR §§ 2.05001-2.05016 [Temporary]. Along with the cost report filed with the commissioner, the nursing home shall clearly identify those costs which have been reclassified.

3. Adjustments to property-related costs for the cost of repairs, replacements, renewals, betterments, or improvements to existing buildings ~~and attached fixtures~~ and building service equipment are subject to the provisions of E. and shall be allowed if:

a. the cost incurred is reasonable, necessary, and ordinary;

b. the net cost is greater than \$5,000;

c. the nursing home's property-related costs per diem are equal to or less than the average property-related costs per diem within its group; and

d. the adjustment is shown in the depreciation and interest schedules submitted to and approved by the commissioner.

These adjustments shall be calculated pursuant to the rules and statutes in effect on May 1, 1983. ~~Additional interest allowed by 3. must be limited to the interest on indebtedness incurred in the acquisition for which depreciation is adjusted for repairs, replacements, renewals, betterments, or improvements permitted under 3.~~

D. Nursing homes with a capacity increase of less than 50 percent. The property-related cost base for a nursing home that increases its capacity by less than 50 percent shall be increased to recognize costs incurred during the reporting year, provided that the nursing home meets the requirements of Minnesota Statutes, section 144A.071. The increased base shall be included in the calculation of a the payment rate for the rate year ~~following the reporting year~~ in which the cost was incurred. The increase

in the property-related cost base is subject to the provisions of E. and must include depreciation, interest, and investment allowance calculated pursuant to the statutes and rules in effect on May 1, 1983. The capacity day divisor shall be calculated pursuant to A. and F.

E. Basis of depreciable assets. The total basis of depreciable nursing home assets, whether constructed or purchased, must not exceed the following maximum limits per bed for licensed beds in rooms with two or more beds per room, and per bed for licensed single bed rooms; except that for licensed single bed rooms built prior to August 15, 1972, the basis must not exceed \$16,500 per bed for a maximum of five percent of licensed beds:

Year beginning	Two or more bed rooms	Single bed rooms
Prior to January 1, 1974	\$11,000	\$16,500
January 1, 1974	13,000	19,500
January 1, 1975	14,820	\$22,230
January 1, 1976	15,413	23,119
January 1, 1977	16,406	\$24,608
January 1, 1978	18,109	27,162
January 1, 1979	20,010	30,014
January 1, 1980	22,971	34,457
January 1, 1981	25,544	38,316
January 1, 1982	26,591	39,887
January 1, 1983	27,309	40,964

On January 1, 1984, and January 1, 1985, the limit shall be adjusted as determined by the commissioner according to the construction index published by the Bureau of Economic Analysis of the United States Department of Commerce. This limit does not apply to changes required by a governmental agency.

G. Recapture of depreciation.

1. If 20 percent or more of the nursing home facility or any portion of the nursing home's depreciable equipment or land improvements is home's depreciable assets are sold at a price in excess of its the cost of the assets as reduced by the total of the depreciation used in the determination of property-related costs under 12 MCAR § 2.05011 [Temporary] and 12 MCAR § 2.049, depreciation recapture to be paid to the commissioner department shall be determined as follows:

c. The portion of the total net recapture amount determined above and allocated to fiscal periods prior to July 1, 1983 shall be reduced by one percent for each month of continuous ownership for the period beginning with since the date of acquisition of the nursing home facility through June 30, 1983.

d. The portion of the net recapture allocated to rate years on or after July 1, 1983 shall be subject to full recapture.

e. The total net recapture shall be the total of c. and d.

2. The new owner shall pay to the commissioner the total net recapture amount in e. c. within 120 days two years of receiving formal notification of the amount due. Interest charges shall be assessed on balances outstanding after the 120 day deadline 120 days of receiving formal notification of the amount due. The annual interest rate charged shall be the rate charged by the commissioner of revenue for late payment of taxes in effect on the 121st day after the formal notification.

3. A nursing home which terminates participation in the medical assistance or Minnesota supplemental aid program and which is subject to the recapture provisions shall submit an appraisal of the assets of the nursing home. If the commissioner determines that the appraisal submitted by the nursing home may not accurately show the value of the nursing home assets, the commissioner may obtain an appraisal of the assets and may determine the amount to be recaptured according to the appraisal.

12 MCAR § 2.05013 [Temporary] Total payment rate determination.

B. Private payment rate. The total payment rate must not exceed the rate paid by private paying residents for similar services for the same period. The private payment rate limitation shall not apply to any retroactive increase to a payment rate established under this rule.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.

ADOPTED RULES

12 MCAR § 2.05014 [Temporary] Special rate setting procedures.

A. Newly constructed nursing homes. Interim payment rates and settle-up payment rates for a newly constructed nursing home or one with a capacity increase of 50 percent or more shall be established in accordance with 1.-9.

2. An interim payment rate for a newly constructed nursing home or a nursing home with a capacity increase of 50 percent or more shall be established as in a.-d.

a. The interim operating cost payment rate shall be computed by dividing the projected operating costs by the anticipated actual resident days. The interim operating cost payment rate must not exceed 110 percent of the 60th percentile increased by six percent in effect for the nursing home's group, except that for a nursing home meeting the provisions of 12 MCAR § 2.05010 C.6.a. [Temporary] the interim operating cost payment rate must not exceed 110 percent of the highest operating cost payment rate for that type of nursing home in effect during that rate year.

3. ~~A newly constructed nursing home's~~ The interim payment rate must not be in effect more than 17 months. A nursing home that has a starting date ~~Where the interim payment rate begins between May 1 and September 30, the nursing home must file a settle-up cost report reports for the reporting year ending on period from the beginning of the interim payment rate through September 30 of the following year. A nursing home that has a starting date~~ When the interim payment rate begins between October 1 and April 30, the nursing home must file a settle-up cost report reports for the reporting year ending on the first September following the starting date period from the beginning of the interim payment rate to the first September 30 following the beginning of the interim payment rate.

~~The interim payment rate period for a nursing home with a capacity increase of 50 percent or more shall coincide with the reporting year and may not be in effect for more than 12 months.~~

6. For periods which begin after June 30, 1983, the settle-up operating cost payment rate must not exceed 110 percent of the 60th percentile increased by six percent in effect for the nursing home's group, or for a nursing home meeting the requirements of 12 MCAR § 2.05010 C.6.a. [Temporary], 110 percent of the highest operating cost payment rate for that type of nursing home during the same period or periods.

8. A newly constructed nursing home or a nursing home with a capacity increase of 50 percent or more shall continue to receive the interim payment rate ~~after submission of the cost report for the period October 1 through June 30 until the settle-up payment rate for the following year is determined in accordance with 12 MCAR §§ 2.05001-2.05016 [Temporary]; except that the property related cost payment rate shall be computed by dividing property related costs by the percentage of capacity days specified in 12 MCAR § 2.05011 F. [Temporary].~~

9. ~~The interim payment rate is subject to retroactive adjustment against the settle up payment rates and the payment rate developed for the remaining nine months of the current rate year. Interest charges must be assessed as provided in 12 MCAR § 2.05013 C. [Temporary]~~ When the settle-up payment rate is computed, the payment rate for the interim payment rate period shall be retroactively adjusted to the settle-up payment rate.

The payment rate for the nine months following the interim payment rate period shall be determined according to the settle-up payment rate, except that the property-related cost payment rate shall be computed by dividing property-related costs by the percentage of capacity days specified in 12 MCAR § 2.05011 F. [Temporary]. Interest charges shall be assessed as provided in 12 MCAR § 2.05013 C. [Temporary].

B. Lesser care levels in nursing homes without certification classification. Nursing homes providing care to welfare medical assistance recipients requiring less care than the care level for which the nursing home is certified shall receive a payment rate calculated as follows:

The ICF I payment rates in a SNF nursing home shall be ~~determined as follows:~~

a. ~~The nursing home's operating cost payment rate shall be the lesser of 85 percent of the established SNF operating cost total payment rate or the 60th percentile of the prior reporting year increased by six percent in effect for the appropriate ICF I group.~~

b. ~~The nursing home's property related cost payment rate shall be 85 percent of the established SNF property related cost payment rate.~~

c. ~~The nursing home's real estate tax and special assessments cost payment rate shall be 85 percent of the established SNF real estate cost payment rate and special assessments cost payment rate.~~

d. ~~The maximum lesser care total payment rate may not exceed 85 percent of the SNF total payment rate.~~

2. The ICF II payment rates in a SNF nursing home shall be ~~determined as follows:~~

a. ~~The nursing home's operating cost payment rate must be the lesser of 50 percent of the established SNF operating~~

cost payment rate of the 60th percentile of the prior reporting year increased by six percent in effect for the appropriate ICF II group.

b. The nursing home's property related cost payment rate must be 50 percent of the established SNF property related cost payment rate.

e. The nursing home's real estate tax and special assessments cost payment rate must be 50 percent of the established SNF real estate tax and special assessments cost payment rate.

d. The maximum lesser care total payment rate must not exceed 50 percent of the SNF total payment rate.

3. The ICF II payment rates in an ICF I nursing home shall be determined as follows:

a. The nursing home's operating cost payment rate must be the lesser of 60 percent of the established ICF I operating cost payment rate of the 60th percentile of the prior reporting year increased by six percent in effect for the appropriate ICF II group.

b. The nursing home's property related cost payment rate must be 60 percent of the established ICF I property related cost payment rate.

e. The nursing home's real estate tax and special assessments cost payment rate must be 60 percent of the established ICF I real estate tax and special assessments cost payment rate.

d. The maximum lesser care total payment rate must not exceed 60 percent of the established ICF I total payment rate.

C. Care classification additions. Nursing homes adding certified levels of care classifications shall receive the lesser care rates defined in B. until the regularly scheduled cost report is submitted. For nursing homes adding higher certified levels of care, the same percentage shall be used to determine the higher care payment rates, subject to the limitations of the 60th percentile increased by six percent in the appropriate higher care level group.

12 MCAR § 2.05015 [Temporary] General reporting requirements and submittal procedures.

A. Required reports. No later than December 31 of each year, the nursing home must submit an annual cost report for the reporting year ending September 30 ~~which conforms to the uniform accounting system defined in~~ on forms supplied by the commissioner. in order to receive medical assistance payments or other reimbursements from the department. In addition, the nursing home shall obtain an annual audit of its financial records from an independent certified public accountant or licensed public accountant. The examination shall be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American Institute of Certified Public Accountants. For a nursing home whose fiscal year does not end between July 1 and September 30, 1983, and which has not previously had an audited financial statement, this requirement shall not apply until the cost report is submitted for the reporting year ending September 30, 1984. A governmentally owned nursing home may comply with these auditing requirements by submitting the audit report prepared by the state auditor. Reports, supporting documentation, and worksheets shall include:

1. general nursing home information and statistical data as requested on the cost report form;

4. a copy of its audited financial statements that correspond to the nursing home's fiscal year ending during the cost reporting year. The audited financial statements must include a balance sheet, income statement, statement of retained earnings, statement of changes in financial position (cash and working capital methods), appropriate notes to the financial statements, any applicable supplemental information, and the certified public accountant's or licensed public accountant's opinion. If the financial statements are not sufficiently detailed or the nursing home's fiscal year is different from the cost reporting year, the audited financial statement's nursing home must provide supplemental information must provide and explain all adjustment amounts necessary to compare that reconciles costs on the financial statements with costs on the cost report;

7. separate audited financial statements that correspond to the fiscal year ~~ending~~ ended during the cost reporting year for any other nursing home owned in whole or part by the same owners;

8. upon request, separate audited financial statements which correspond to the fiscal year ~~ending~~ ended during the cost reporting year for any related organization doing business with the nursing home if the related organization has not previously

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

had an audited financial statement, the related organization must furnish the audited financial statements within 90 days after the end of the fiscal year following the commissioner's request;

C. Reporting requirements: real estate taxes and special assessments. Real estate taxes and special assessments shall be reported as follows:

1. For the rate year beginning July 1, 1983, the nursing home must submit a copy of its statement of property taxes payable in 1983 within 30 days of the request by the commissioner.

2. For rate years effective July 1, 1984, and after, the nursing home must submit a copy of its statement of property tax payable for the calendar year in which the rate year begins by April 5 of that calendar year.

3. Special assessments and related interest paid during the reporting year must be shown on the cost report.

D. Method of accounting. The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying reporting requirements. If a government-owned nursing home demonstrates that the use of the accrual method of accounting is not applicable to the nursing home and that a cash or modified accrual method of accounting more accurately reports the nursing home's financial operations, the commissioner shall permit the nursing home to use a cash or modified accrual method of accounting.

~~D.~~ E. Records. The nursing home shall maintain statistical and accounting records in sufficient detail to support information contained in the nursing home's required reports and audited statement in sufficient detail for at least four years following submission of a cost report. Upon request of the commissioner, the nursing home shall provide access to federal and state income tax returns for the nursing home, any related organization, and any individual having an ownership interest in the nursing home as specified in A.6.

~~E.~~ F. Exceptions. If differences arise between these rules and generally accepted accounting principles, 12 MCAR §§ 2.05001-2.05016 [Temporary] shall prevail.

~~F.~~ G. Report certification. Reports required in this section must be accompanied by a certification of the person having over 50 percent effective ownership or the chief financial officer if there is no majority owner, and the administrator or chief operating executive. If reports have been prepared by a person other than these individuals, a separate statement signed by the preparer shall also be included stating the terms of the preparer's employment and charges for preparation of the report.

~~G.~~ H. Reporting deadlines and extensions.

2. The commissioner may reject any report filed by a nursing home that is incomplete or inaccurate or may require other relevant additional information necessary to support the payment rate request. The corrected report or the additional information requested must be returned to the commissioner within ~~15~~ 20 days of the request or the report must be rejected. The commissioner may extend this time if the nursing home makes a written showing of extreme good cause and if the commissioner determines that the delay in receipt of the information will not prevent the commissioner from establishing rates in a timely manner as required by law.

If the report is rejected, the commissioner shall reduce the payment rate to the nursing home to 80 percent of its most recently established payment rate. The reduced payment rate shall be in effect until the first day of the month following the month in which the information is completely and accurately filed. Reinstatement of the full payment rate may shall not be retroactive.

4. If documentation concerning real estate taxes and special assessments is not furnished as provided in C., the documentation may subsequently be furnished only by amendment to the report pursuant to J.2. Until this information is furnished pursuant to C. or J.2., no amount shall be allowed for costs in the nursing home's rate.

~~H.~~ I. Effective date and noncompliance.

2. Failure to provide required reports, documentation, and worksheets required in A.1.-14. shall result in the reduction of the payment rate to 80 percent of the payment rate in effect on the first day of the fourth calendar month after the close of the nursing home's reporting year. The reduced payment rate shall be in effect until the first day of the month following the month in which the information is completely and accurately filed. Reinstatement of the full payment rate may shall not be retroactive.

~~I.~~ J. Audits, amended reports, false reports, exceptions.

1. The department shall subject all reports and supporting documentation to desk audit and field examinations to determine compliance with 12 MCAR §§ 2.05001-2.05016 [Temporary].

a. If these audits reveal inadequacies in nursing home recordkeeping and accounting practices, the commissioner shall require that the nursing home engage competent professional assistance to properly prepare required reports. Failure to

remedy these inadequacies within 90 days shall result in the application of the penalties in ~~H.2.~~ I.2. Retroactive adjustments may be made as a result of desk and field audit findings.

b. If any field examination shows lack of adequate documentation, the commissioner shall require the nursing home to produce the additional documentation within 15 days. If the documentation is not provided, the costs shall be disallowed.

2. Nursing homes may file amendments to previously filed reports when:

a. mathematical errors or omissions in the report are discovered, if the amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The commissioner shall make retroactive adjustments to the payment rate of an individual nursing home if the amendment is filed within one year of the filing of the original cost report to be amended;

b. a nursing home increases its capacity by less than 50 percent as described in 12 MCAR § 2.05011 D. [Temporary]. No redetermination of the 60th percentile shall be made as a result of amendments to cost reports.

12 MCAR § 2.05016 [Temporary] Appeal procedures.

B. Filing of appeals. To be effective, an appeal must meet the following criteria:

1. The nursing home must notify the commissioner of its intent to appeal within 30 days of receiving the payment rate determination or decision which is being appealed. The appeal must be filed, in writing, within 60 days ~~after the commissioner issued~~ of receiving the payment rate notification determination or decision which is being appealed.

D. Payment rate during appeal period. Notwithstanding any appeal filed pursuant to 12 MCAR §§ 2.05001-2.05016 [Temporary], the payment rate established by the commissioner shall be the rate paid to the nursing home while the appeal is pending. Any nursing home appealing pursuant to this rule is subject to the limitations of 12 MCAR § 2.05013 [Temporary] B. pending resolution of the appeal. The nursing home may give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the rate which will be charged pending appeal and the rate which will be charged if the nursing home prevails in the appeal. If such notice is given and the nursing home prevails in the appeal, the nursing home may adjust the private payment rate retroactive to the first day of the period covered by the appeal or to the 31st day after giving the notice, whichever is later.

Minnesota Housing Finance Agency

Adopted Rules Relating to Home Improvement Loan Applications (12 MCAR § 3.051 Eligible Applications)

The rule proposed and published at *State Register*, Volume 7, Number 47, page 1654, May 16, 1983 (7 S.R. 1654), and Volume 7, Number 51, pages 1794-1795, June 20, 1983 (7 S.R. 1794) is adopted as proposed.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

**State of Minnesota
County of St. Louis**

Black Steer Supper Club II, Inc.,

Appellant,

v.

Commissioner of Revenue,

Appellee.

**Tax Court
Regular Division**

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT

Docket No. 3822

Order dated August 29, 1983

The above matter was heard by the Minnesota Tax Court, Judge Carl A. Jensen presiding, on May 19, 1983, at the courtroom of the Tax Court in St. Paul, Minnesota.

TAX COURT

Jim Randall, Randall, Eliason & Murray, appeared on behalf of Appellant.
C. H. Luther, Deputy Attorney General, appeared on behalf of Appellee.

Syllabus

An Order of the Commissioner of Revenue will be affirmed where there is no dispute about the law or facts.

Findings of Fact

1. On March 8, 1983, the Commissioner of Revenue issued an Order revoking the Sales and Use Tax Permit which had previously been issued to Appellant. Part of that Order stated the following:

You are hereby notified, that under Minn. Statutes, sections 297A.08, it is a crime to continue making taxable retail sales in Minnesota without a valid sales and use tax permit, and

You are hereby notified, that under Minn. Statutes, sections 271.06 you have the right to appeal this Order to the Tax Court. Notice of Appeal must be filed within 60 days after service of this Order.

2. Appellant filed its appeal with the Minnesota Tax Court on April 21, 1983.

3. The Order of the Commissioner incorporated a report of a hearing examiner dated February 24, 1983, in which the hearing examiner found an outstanding sales tax liability of \$44,258.41 as of that date.

4. At the time of the hearing in this Court on May 19, 1983, it appeared that the Commissioner had collected approximately \$3,500 by a levy and that additional amounts were being paid monthly on current sales but that the major part of the original amount as determined by the hearing examiner had not been paid.

5. Appellant continued to operate its business after the Order of Revocation of the Sales Tax Permit on March 8, 1983, on its assumption that its appeal suspended the Order of Revocation until the decision of this Court.

6. Minnesota Statutes § 271.12 provides in part as follows:

. . . every order of the commissioner, the appropriate unit of government, or the Tax Court shall take effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law:

7. The Commissioner had the authority to issue the Order appealed from and the Order should be sustained.

Order for Judgment

1. The Order of the Commissioner of Revenue dated March 8, 1983, revoking the Sales and Use Tax Permit of the Appellant among other things is hereby confirmed.

By the Court,
Carl A. Jensen, Judge

Memorandum

The only evidence offered by the Appellant was simply its inability to pay sales taxes that were past due. It appeared that Appellant had been delinquent since approximately sometime in 1981.

The Order of the Commissioner dated March 8, 1983, revoking the Sales and Use Tax Permit which had previously been issued to Appellant read in part as follows:

You are hereby notified, that under Minn. Statutes, sections 297A.08, it is a crime to continue making taxable retail sales in Minnesota without a valid sales and use tax permit, and

You are hereby notified, that under Minn. Statutes, sections 271.06 you have the right to appeal this Order to the Tax Court. Notice of appeal must be filed within 60 days after service of this Order.

It appeared at the trial that the Appellant assumed that its appeal suspended the Order of Revocation until the decision of this Court and the Appellant continued to operate its business. Minn. Stat. § 271.12 provides in part as follows:

. . . every order of the commissioner, the appropriate unit of government, or the Tax Court shall take effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law:

This clearly states that the Order of Revocation took effect March 8, 1983, and that an appeal did not stay the execution of the Order revoking the permit unless otherwise expressly provided by law.

It did appear that Appellant thought that the appeal automatically stayed the execution of the Order. Although ignorance of

the law is no excuse, in the future such Orders should probably include a statement that the Order takes effect immediately and that an appeal will not automatically stay the execution of the Order.

On the trial of this case, a question was raised relative to the power of this Court to stay or suspend an Order of the Commissioner pending the final decision of the Court. It would appear to us that in a proper case this Court would have the power to issue such a stay although it would require a minimum showing that there was a great likelihood that the Order would be reversed or amended and that probably also that there would be irreversible damage to the Appellant. For example, a stay of the Order until a final decision of the Court might be issued where a showing was made, on a motion to stay the Order, that it was quite likely that the Order would be reversed or modified. We believe the power to do this is implied in the power granted to the Court in the following sections of Minnesota Statutes:

§ 271.01, subd. 5. Jurisdiction. The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state.

§ 271.05 Power to Review. The tax court shall have power to review and redetermine orders or decisions of the commissioner of revenue upon appeal therefrom in the cases authorized by law.

§ 271.06, subd. 6. Hearings; determination of issues; default. The tax court shall hear, consider, and determine without a jury every appeal de novo. . . . All such parties shall have an opportunity to offer evidence and arguments at the hearing; provided, that the order of the commissioner or the appropriate unit of government in every case shall be prima facie valid. When an appeal to the tax court has been taken from an order or determination of the commissioner or from the appropriate unit of government, the proceeding shall be an original proceeding in the nature of a suit to set aside or modify the order or determination. . . .

Minn. Stat. § 271.12 quoted above states that every Order of the Commissioner or the Tax Court shall take effect immediately and an appeal will not stay the execution thereof. However, it adds "unless otherwise expressly provided by law." Since the matter is properly before the Court, the Court has the power to make any Orders it deems necessary and it would appear that this Court could issue an Order staying the Commissioner's Order just as the Minnesota Supreme Court could issue an Order staying the Order of this Court.

Another question was raised by the Appellee relative to the powers of this Court to exercise discretionary power given to the Commissioner. The statutes cited above give the Court the power to hear appeals from Orders of the Commissioner and they provide that this Court shall hear the matter de novo and may set aside or modify the Order. We construe this to mean that if there is a discretionary power in the statute, this Court can exercise that discretionary power.

The Appellee discussed at some length the equitable powers of this Court. The Appellee's brief stated the following:

"On the contrary, the legislature has indicated its intent that the Tax Court shall not have equity power by expressly denying it authority to review the only equitable relief that the Commissioner is empowered to dispense. § 270.07, subd. 1."

Minn. Stat. § 270.07, subd. 1 relates only to the abatement of real estate taxes and it gives the Commissioner the discretionary power of abatement but only if the proper local governing body has approved the abatement. That section clearly provides that the Tax Court has no authority over the Order of the Commissioner in that circumstance.

Appellee refers to this as an "equity power" but the word equity is not used in the statute. The statute simply gives a discretionary power.

Our attention was not called to any other section of the statutes which would limit the power of this Court to exercise any discretionary powers contained in the tax statutes. C.A.J.

SUPREME COURT

Decisions Filed Friday, September 2, 1983

Compiled by Wayne O. Tschimperle, Clerk

C0-82-603 The Minneapple Co. v. William Normandin, individually and d.b.a. Billy Buttons, Appellant. Hennepin County.

The mark fashioned and marketed by appellant is not so similar to the trademark of respondent to constitute either infringement under Minn. Stat. § 333.28 (1982) or unfair competition.

Reversed. Amdahl, C.J.

SUPREME COURT

C0-82-1492 Phyllis Elaine Holliday and William Holliday, Appellants v. Robert Larson, *et al.* Lake County.

Minn. Stat. § 170.55 (1982) does not require plaintiff to mail to the last known address of a nonresident defendant the affidavit of compliance with the service provisions of the statute in order to invoke the jurisdiction of the Minnesota courts.

Reversed and remanded. Yetka, J.

C9-82-289, C0-82-1234 Richard Pilger, Appellant v. State of Minnesota. Polk County.

Evidence was sufficient to support defendant's conviction of assault in the second degree.

Record on appeal fails to support defendant's contention that his trial counsel failed to represent him effectively.

Trial court did not err in computing defendant's criminal history score for sentencing purposes.

Affirmed. Scott, J.

C7-82-856 State of Minnesota v. Joseph William Charlton, Appellant. Itasca County.

The burden of proof on duress as an affirmative defense to a specific-intent crime is on the state once the defendant has produced sufficient evidence as a matter of law to make the defense an issue in the case. The jury instruction to the contrary was in error.

A federal constitutional error is plain error unless harmless beyond a reasonable doubt and unless it is unlikely that the error substantially influenced the jury to convict.

The verdict as a whole was supported by the evidence.

Affirmed. Wahl, J.

C6-81-627 In the Matter of the Petition for Disciplinary Action Against Allan T. Quello, a Minnesota Lawyer. Supreme Court.

Disbarred. Per Curiam.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Governor's Office

Notice of Request for Proposals for Services of a Federal-State Relations Consultant

The Governor's office is seeking a consultant to provide assistance to the State of Minnesota Washington Office. The Washington Office gathers and disseminates information and interacts with administration officials so as to further Minnesota's best interests in the federal-state relationship and aid the state's participation in federal programs.

Applicants must be knowledgeable in international trade, the law, and federal-state relations. In addition, the applicants must be familiar with and accustomed to working with the current federal administration.

The projected duration of the contract is for one year, and the estimated amount of the contract will not exceed thirty thousand dollars.

Proposal submissions will be accepted until 5:00 p.m. on September 26, 1983. The formal RFP may be requested from and other inquiries may be made to:

Terry Montgomery, Chief of Staff
Governor's Office
130 State Capitol
St. Paul, MN 55155

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture Minnesota Export Finance Authority

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Policies and Procedures of the Minnesota Export Finance Authority Relating to the Financing of Pre-Export Credit Needs of Minnesota Exporters

Notice is hereby given that the Minnesota Export Finance Authority (MEFA) is seeking information or opinions from sources outside the agency in preparing to promulgate proposed rules governing the policies and procedures of MEFA in providing loan guarantees, insurance, and other assistance to aid and facilitate the financing of pre-export credit needs of Minnesota exporters. The promulgation of these rules is authorized by Laws 1983, chapter 289, section 8. Among other things, the statute authorizes and empowers MEFA to insure, co-insure, and guarantee against commercial pre-export credit risks; charge premiums, interest, and fees; provide administrative, consultative, and technical services to assist in the financing of exports; and contract with federal agencies and private insurers to secure re-insurance for country and commercial risks for MEFA's insurance program. The powers of MEFA must be used exclusively to meet the pre-export credit needs of Minnesota exporters, defined to mean the period between formation of a sale and the actual shipment of goods. It is contemplated that the rules will specify eligibility criteria for loan guarantees and insurance, prescribe application procedures, define limits on loan guarantees or insurance, establish fee structures, and define policies for credit administration and participation by third parties. The rules may also include other provisions which the MEFA Board of Directors finds necessary.

The rules will have an impact on small businesses in that they will affect their access and eligibility for loan guarantees or insurance for pre-export credit needs through MEFA.

MEFA requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gerald Heil
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107

Oral statements and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment shall be accepted until October 21, 1983. Any written material received by the MEFA shall become part of the record submitted to the Attorney General.

Sept. 1, 1983

Jim Nichols, Commissioner
Department of Agriculture for
William Dietrich, Chairman
Minnesota Export Finance Authority Board

Department of Agriculture Agronomy Services Division

Notice of Special Local Need (SLN) Registration for Clean Crop Paraquat Plus

Pursuant to Minnesota Statutes, section 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture (MDA), on August 26, 1983, issued a Special Local Need (SLN) Registration for Clean Crop Paraquat Plus with EPA Reg. #239-2186-34704, manufactured by Platte Chemical Company, Fremont, NE.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such

OFFICIAL NOTICES

a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the use of this product for post harvest desiccation of Kentucky bluegrass seed fields to facilitate burning.

The application and other data required under Minnesota Statutes, sections 18A.22, subdivision 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN83-83-0012) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
St. Paul, Minnesota 55107
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, chapter 14, for the purpose of revoking, amending, or upholding this registration.

August 26, 1983

Jim Nichols, Commissioner

Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Rules Governing Open Competition for Workers' Compensation Rates, 4 MCAR §§ 1.9140-1.9143

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing open competition for workers' compensation rates. Promulgation of these rules is authorized by Minnesota Statutes, section 79.51.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Judith Hale, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3976.

Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Self-Insurance Plan Administrators

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing self-insurance plan administrators. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.23, subd. 8.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Rose Ortiz, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-4017.

All statements of information and comment shall be accepted until October 1, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce Financial Institutions Division

Bulletin No. 2816: Maximum Lawful Rate of Interest for Mortgage and Contracts for Deed for the Month of September 1983

Notice is hereby given that pursuant to section 47.20, subd. 4a, Minnesota Statutes 1982, as amended by chapter 288, 1983 Session Laws, the maximum lawful rate of interest for conventional home mortgages for the month of September 1983 is fifteen and three-quarters (15.75) percentage points. Further, the maximum lawful rate of interest for contracts for deed for the month of September 1983 is fifteen and three-quarters (15.75) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is based on the Federal Home Loan Mortgage Corporation (FHLMC) August 9, 1983, auction results and a weighted average yield for 8 month conventional mortgage commitments of 15.268%. This result plus three-eighths ($\frac{3}{8}$) percent totals 15.643% and is rounded off to the next highest one-quarter of one percent per annum. Current rates regarding the monthly publication are available by telephoning the Division of Financial Institutions' 24-hour information number (612) 297-2751.

August 31, 1983

Michael A. Hatch
Commissioner of Commerce

Minnesota State Advisory Council for Vocational Education

Notice of Hearing

The Minnesota State Advisory Council for Vocational Education (MN/SACVE) will meet at 9:15 a.m., Thursday, September 15, 1983 in the Skogmo Room, Warren Building, Dunwoody Industrial Institute, 700 Wayzata Boulevard, Minneapolis, Minnesota.

30 August 1983

State Board of Pharmacy

Notice of Intent to Extend Comment Period

Notice of intent to solicit outside opinion concerning proposed rules was published in the *State Register* on June 13, 1983 (7 S.R. 1781). Statements and comments were to be received by August 1, 1983.

Notice is hereby given that the Board will extend the time for comment through November 15, 1983.

Statements of information and comment may be addressed to:

David E. Holmstrom
Executive Secretary
MN Board of Pharmacy
717 Delaware St. SE #351
Mpls., MN 55414

Department of Public Welfare Income Maintenance Bureau

Notice of Intent to Solicit Outside Opinion Concerning Rule Relating to Prospective Rate Review for Inpatient Hospital Reimbursement under the Medical Assistance and General Assistance Medical Care Programs

Notice is hereby given that the Department of Public Welfare has drafted temporary rule 12 MCAR §§ 2.05401-2.05403 for prospective rate review of inpatient hospital services under the Medical Assistance and General Assistance Medical Care

OFFICIAL NOTICES

programs. The temporary rule will be promulgated into a permanent rule. In the process the rule may be changed to reflect diagnosis related groups. All interested or affected persons or groups are requested to participate through statements and comments which may be made orally or in writing. Written statements may be addressed to:

Thomas JoliCoeur
Minnesota Department of Public Welfare
Income Maintenance Bureau
Health Care Programs
2nd Floor Space Center
444 Lafayette Road
St. Paul, MN 55101

Oral statements of information and comment will be received during the regular business hours over the telephone at (612) 296-8822. All statements of information will be open until further notice.

Any written material received by the department shall become part of the hearing record.

Minnesota Racing Commission

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Parimutuel Horse Racing in Minnesota

Notice is hereby given that the Minnesota Racing Commission is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing all aspects of parimutuel horse racing in Minnesota, including the development of criteria for setting the number of racing days, the issuance of Class A, B, C and D licenses and the promulgation of procedural rules to govern the commission. The commission is authorized to promulgate rules under Laws 1983, chapter 214.

The Minnesota Racing Commission requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit statements of information or comment in writing to: Minnesota Racing Commission, Suite 400, 312 Central Avenue, Minneapolis, Minnesota 55414.

All statements of information and comments will be accepted with respect to each set of rules until such set has progressed to the point at which public comment is terminated pursuant to the Minnesota Administrative Procedure Act. Any written material received by the Minnesota Racing Commission shall become part of the record in the event that the rules are promulgated.

Notice of Public Meetings to Hear Statements of Information and Comment Prior to Drafting of Rules

Notice is hereby given that the Minnesota Racing Commission will hold the following meetings at United Labor Centre, 312 Central Avenue, Minneapolis, Minnesota 55414:

Thursday, September 15, 1983 at 10 a.m., to hear Statements of Information and Comment from Potential Investors in Racetrack Construction.

Wednesday, September 21, 1983 at 4 p.m., to hear Statements of Information and Comment from Interested and Affected Persons and Groups other than Potential Investors in Racetrack Construction.

Ray Eliot, Chairman
Minnesota Racing Commission

Department of Transportation

Petition of the City of St. Louis Park for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Louis Park made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a reconstruction project on Municipal State Aid Street 276 (Louisiana Avenue) from CSAH 16 (Cedar Lake Road) to Trunk Highway 12.

The request is for a variance from 14 MCAR § 1.5032 H.1.c., Rules for State Aid Operations under Minnesota Statute,

Chapters 161 and 162 (1978) as amended, so as to permit a street width of 48 feet with no parking instead of the required 52 feet with no parking.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 29th day of August, 1983

Richard P. Braun
Commissioner of Transportation

County Law Libraries

Joint Notice of Filing Fees

Pursuant to Minn. Stat. § 140.422 (§ 140.421 for Hennepin and Ramsey Counties) the following County Law Libraries announce the Law Library fees to be collected in the district, county, municipal, probate and conciliation courts of their respective counties.

Fees shall be in effect from July 1, 1983 unless otherwise noted.

	Anoka	Blue Earth	Carlton	Carver	Chippewa	Dodge	Douglas ²	Fairibault	Hennepin ³
Civil Suits									
Plaintiff/Petitioner	\$7	\$5	\$10	\$7	\$7	\$5	\$5	\$5	\$7
Defendants/Respondents/Intervenors (Jointly or Separately)	5	5	10	7	7	5	5	5	5
Probate Court									
Petitioner	5	5	10	7	7	5	5	5	5
Conciliation Court									
Petitioner	3	5	5	5	7	5	--	5	3
Respondent	3	5	5	5	7	5	--	5	3
Criminal Convictions									
Defendant	--	--	--	--	7	5	--	--	--
Misdemeanor/Traffic Convictions									
Defendant	--	--	0 ¹	--	7	--	--	--	--

NOTES: ¹Carlton County Law Library Board reserves the right to add a \$10 Law Library fee.

²Douglas County Law Library fees effective from January 1, 1983.

³Hennepin County Law Library fees effective from January 1, 1980.

OFFICIAL NOTICES

	Houston ⁴	Itasca	Kandiyohi ⁶	Lac Qui Parle	Le Sueur ⁸	Marshall	McLeod	Meeker	Morrison
Civil Suits									
Plaintiff/Petitioner	\$5	\$3	\$10	\$7	\$10	\$3	\$5	\$5	\$5
Defendants/Respondents/Intervenors (Jointly or Separately)	5	3	10	7	10	3	5	5	5
Probate Court									
Petitioner	5	3	10	7	10	3	5	5	5
Conciliation Court									
Petitioner	5	3	10	7	5	3	3	5	--
Respondent	5	3	--	7	5	3	3	--	--
Criminal Convictions									
Defendant	--	3 ⁵	10	7	--	3	--	--	5 ⁹
Misdemeanor/Traffic Convictions									
Defendant	--	--	1 ⁷	7	--	3	--	--	5 ⁹

NOTES: ⁴ Houston County Law Library Board of Trustees reserves the right to increase the existing fees to \$7.

⁵ Itasca County Law Library fee will be charged in all Criminal Actions where the penalty imposed is \$100 or more or any jail time, including suspended jail time.

⁶ Kandiyohi County Law Library fees effective from August 1, 1983.

⁷ Kandiyohi County. There shall be no assessment for any conviction for a non-moving traffic violation.

⁸ Le Sueur County Law Library fees effective from December 1, 1982.

⁹ Morrison County. The Judge of the District and County Court may, on a case by case basis, or upon standing Order, include in the costs or disbursements assessed against the Defendant convicted in the District or County Court of Morrison County of the violation of any statute or municipal ordinance in all criminal prosecutions in which, upon conviction, the Defendant may be subject to the payment of costs or disbursements in addition to a fine or other penalty, a county law library fee in the sum of \$5.00, said fee to be assessed only for offenses committed subsequent to May 17, 1983, the date of the establishment of the County Law Library.

	Olmstead	Polk ¹¹	Pope ¹²	Ramsey ¹³	Rock	St. Louis	Stearns/ ¹⁶ Benton	Wilkin	Winona	Yellow Medicine
Civil Suits										
Plaintiff/Petitioner	\$10	\$5	\$5	\$5	\$5	\$10	\$10	\$5	\$5	\$7
Defendants/Respondents/Intervenors (Jointly or Separately)	10	5	5	5	5	10	10	5	5	7
Probate Court										
Petitioner	10	5	5	5 ¹⁴	5	10	10	5	--	7
Conciliation Court										
Petitioner	5	1	5	--	1	1	5	1	5	7
Respondent	5	--	5	--	1	1	5	1	--	7
Criminal Convictions										
Defendant	10 ¹⁰	5	5	--	--	2 ¹⁵	10 ¹⁷	--	--	7
Misdemeanor/Traffic Convictions										
Defendant	--	5	5	--	--	2 ¹⁵	10 ¹⁷	--	--	7

NOTES: ¹⁰ Olmstead County Law Library fee excluded for cases that do not go to trial.

¹¹ Polk County Law Library fees effective from September 1, 1983.

¹² Pope County Law Library fees effective from February 15, 1983.

¹³ Ramsey County Law Library fees effective from January 1, 1981. Board is in process of increasing fees; proposed increase will be from \$5 to \$7 on existing fees, effective January 1, 1984.

¹⁴ Ramsey County. No Law Library fee on Guardianship or Conservatorship petitions in Probate Court.

¹⁵ St. Louis County Law Library Fees for filings in criminal and misdemeanor/traffic convictions will not be collected until the Board of Trustees, after reviewing operating costs and collections, determines whether its collection is necessary.

¹⁶ Stearns/Benton Counties Law Library fees effective from August 1, 1983.

¹⁷ Stearns and Benton Counties. With respect to Criminal Convictions and Misdemeanor/Traffic Convictions, defendant shall pay \$10 law library fee in all criminal prosecutions in which, upon conviction, defendant is subject to the payment of the costs and disbursements in addition to a fine or other penalty.

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

- _____ Annual subscription \$130.00
- _____ Trial subscription (13 weeks) \$40.00
- _____ Single copies \$3.25 each

Minnesota Guidebook to State Agency Services 1982-83 A 750-page reference guide to services provided by Minnesota agencies.

- _____ Single copy \$9.00 + \$.54 sales tax = \$9.54* each

Session Laws of Minnesota—1982. One volume. Laws enacted during the 1982 legislative session. Inquire about back volumes. \$35 + \$2.10 (sales tax) = \$37.10.*

State Register Binder. Durable 3½ inch, forest green binders imprinted with the *State Register* logo.

- _____ *State Register Binder* \$6.50 + \$.39 (sales tax) = \$6.89* each

State Register Index. Contains cumulative findings aids to Volume 6 of the *State Register*, including MCAR Amendments and Additions, Executive Orders List, Executive Orders Index, Agency Index, Subject Matter Index.

- _____ Single copy \$5.00

Worker's Compensation Decisions. Volume 35. Selected landmark decisions of the Worker's Compensation Court of Appeals. Available by annual subscription, with quarterly update service.

- _____ Annual subscription \$65.00

Minnesota Outdoors Catalog—1983. Complete listing of material on the Minnesota outdoor activities. Bikeways, canoeing, county, lake and other maps. Books, charts, rules, laws, posters and more.

- _____ FREE COPY

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Minnesota Department of Revenue. Please enclose full amount for items ordered. Make check or money order payable to "State of Minnesota."

EACH ORDER MUST INCLUDE ADDITIONAL \$1.50 FOR POSTAGE AND HANDLING.

Name _____

Attention of: _____

Street _____

City _____ State _____ Zip _____

Telephone _____

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Legislative Reference Library
Room 111 Capitol

Interoffice